

In The Matter Of:
COMMODITY FUTURES TRADING COMMISSION v.
LONG LEAF TRADING GROUP, INC., et al.

JOHN F. BURNSIDE
September 30, 2021

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Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF ILLINOIS
3 EASTERN DIVISION
4 COMMODITY FUTURES TRADING)
5 COMMISSION,)
6 Plaintiff,)
7 vs.) No. 20 C 3758
8 LONG LEAF TRADING GROUP,)
9 INC., et al.,)
10 Defendants.)
11
12 The remote 26(b)(4)(A) deposition
13 of JOHN F. BURNSIDE, called by the Plaintiff for
14 examination, pursuant to subpoena and pursuant to
15 the Federal Rules of Civil Procedure for the United
16 States District Courts pertaining to the taking of
17 depositions, taken before Mary Maslowski, Certified
18 Shorthand Reporter and Notary Public within and
19 for the County of Cook and State of Illinois with
20 the witness located in Indianapolis, Indiana,
21 commencing at the hour of 8:35 o'clock on
22 September 30, 2021.
23
24

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1 A P P E A R A N C E S:
2
3 (Appearing via videoconference)
4 MR. JOSEPH C. PLATT, Trial Attorney
5 MR. ASHLEY J. BURDEN, Senior Trial Attorney
6 MS. ELIZABETH M. STREIT, Trial Team Leader
7 MR. JOSEPH J. PATRICK, Senior Investigator
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19 Futures Trading Commission;
20
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On behalf of Long Leaf Trading Group,
Inc., and James A. Donelson;

(Appearing via videoconference)
MR. JEREMY RUTH
Appearing Pro Se.

CSR License No. 084-003278.

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1 **MR. PLATT:** Ms. Maslowski, would you
2 please swear in the witness.
3 (Witness duly sworn.)
4 **MR. PLATT:** We're on the record at 8:35
5 Central Time on September 30, 2021. My name's
6 Joseph Platt. I'm a trial attorney with the
7 CFTC. This is the deposition of John Burnside
8 in the case captioned CFTC vs. Long Leaf Trading
9 Group, et al., Case No. 20 C 3758 pending in the
10 United States District Court for the Northern
11 District of Illinois. We're proceeding by
12 videoconference today due to travel restrictions
13 that are still in place related to the
14 Coronavirus pandemic.
15 JOHN F. BURNSIDE,
16 called as a witness herein, having been first
17 duly sworn, was examined and testified as follows:
18 **DIRECT EXAMINATION**
19 **BY MR. PLATT:**
20 **Q** Mr. Burnside, we're going to try
21 something out right away. I know you've done
22 this before. In person during a deposition the
23 witness will be handed a paper copy of exhibits,
24 but since we're proceeding by videoconference

<p style="text-align: right;">Page 5</p> <p>1 I'm going to share my screen with you so you 2 can -- 3 A Okay. 4 Q Let's try it out. 5 MR. PLATT: Mr. Burnside, I'm marking 6 an exhibit as CFTC Exhibit 507. 7 (Whereupon CFTC Exhibit No. 507 8 was marked for identification.) 9 Q Can you see the document on your screen? 10 A Yes, I can. 11 Q Is the text large enough for you to read? 12 A Not really, but we can -- I know it's mine 13 that I wrote, you know. Do I hit got it? 14 MR. FALVEY: Yeah, hit got it and 15 I think we can make it bigger. Try hitting 16 control and plus. 17 THE WITNESS: Oh, there you go. 18 Thank God I've got my IT department with me. 19 MR. FALVEY: That's right. 20 THE WITNESS: If not, I can increase 21 it again. 22 BY MR. PLATT: 23 Q Mr. Burnside, do you recognize this 24 document?</p>	<p style="text-align: right;">Page 7</p> <p>1 A Okay. Jim, who is the attorney for 2 Long Leaf. 3 BY MR. PLATT: 4 Q And that's Mr. Falvey, right? 5 A Yeah. 6 Q Also present this morning are my 7 colleagues Beth Streit and Joseph Patrick. 8 They are my colleagues at the CFTC. We may 9 be joined later on by another trial attorney at 10 the CFTC named Ashley Burden. Let the record 11 reflect that Mr. Jeremy Ruth, who's a defendant 12 in this action, was invited to participate. He's 13 not present. 14 Mr. Burnside, I understand 15 that you've been deposed before so you may know 16 the basics, but I'll just go over them anyway so 17 the record's clear. 18 A Great. 19 Q We've got a stenographer writing 20 down everything that we're saying. And so she 21 can take down an accurate record, there's just 22 a couple things to be mindful of. The first is 23 everything's got to -- all the answers have to be 24 verbal in nature. No nods or shakes of the head.</p>
<p style="text-align: right;">Page 6</p> <p>1 A I do. 2 Q And how do you recognize it? 3 A I wrote it. 4 Q And what is it? 5 A It was just an overview of options 6 trades and analysis of what Long Leaf was doing. 7 Q Is it fair to say that this is 8 a report that you created for Long Leaf Trading 9 as an expert witness in connection with this 10 litigation? 11 A I would agree with that. 12 Q You can see that I'm scrolling down 13 to the second page. There's a date August 9, 2021, 14 then your name and a signature. Is that your 15 signature? 16 A It is. 17 Q You were retained by Long Leaf Trading to 18 create this report, right, Mr. Burnside? 19 A That is correct. 20 Q Are you represented by counsel today? 21 A No. 22 Q I see someone else is in the room with 23 you. Who's accompanying you today? 24 MR. FALVEY: You can answer that.</p>	<p style="text-align: right;">Page 8</p> <p>1 You're already doing a really good job with that 2 one. I'll do my best to let you finish your answer 3 before I ask another question, and it's helpful if 4 you will just wait to answer my question -- wait 5 until I'm done asking my question before you start 6 to answer it, okay? 7 A Fair enough. 8 MR. PLATT: And let the record 9 reflect that it appears that Defendant Jeremy 10 Ruth has joined the videoconference as a passive 11 participant in this deposition. 12 Q So the next rule, Mr. Burnside, 13 to keep in mind is if you don't understand my 14 question, tell me that you don't understand it 15 and I'll try and ask it in a way that makes better 16 sense, okay? 17 A Yes. 18 Q And if you answer the question, 19 I'll assume that you understand it. If you'd 20 like to take a break, feel free to just let me 21 know and we can go off the record for five or ten 22 minutes. The only thing I'd ask about breaks is 23 that if there's a question pending, just please 24 answer the pending question before we go off the</p>

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1 record.
2 A Okay.
3 Q Did you do anything to prepare for this
4 deposition, Mr. Burnside?
5 A I just reviewed some documents that
6 Mr. Donelson sent me.
7 Q Which documents did you review?
8 A I believe it was just the trading documents
9 that he sent forth to me.
10 Q And what form did they take? Were they
11 Excel files? Were they QuikStrikes? Anything stand
12 out in your memory?
13 A I would say they were Excel.
14 Q Anything beyond Excel files?
15 A No, not that I'm aware of.
16 Q Okay. Did you meet with Mr. Falvey before
17 this deposition?
18 A Just to find out how to get on the
19 computer and --
20 THE WITNESS: Go ahead.
21 MR. FALVEY: You can --
22 A Yeah. I mean, we also talked about,
23 you know, just kind of trying to figure out what
24 kind of questions you guys might ask and general

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1 questions in regards to that. Nothing in specifics.
2 I'm not -- I don't do this every day so ...
3 BY MR. PLATT:
4 Q I understand. How much time did
5 you spend with Mr. Falvey in preparing for this
6 deposition?
7 A Well, I've been trading stock options
8 for 35 years and commodity options for 5 years,
9 so I'm pretty -- or maybe 4 years. So I'm pretty
10 versed in options trading. So just being able to
11 look at the trades, I'm pretty astute on what goes
12 on so ...
13 MR. FALVEY: Jody, can we have two
14 seconds? I'll do it on the record. Listen
15 to his question and answer --
16 A How much time? Oh, I would say
17 approximately five hours.
18 BY MR. PLATT:
19 Q Okay. And when was that?
20 A It was over the last two weeks.
21 Plus when I made the -- when I did the analysis,
22 which was a long time ago, back in -- when was that,
23 like the end of '19 or the beginning of '20? I did
24 some more analysis on that. So maybe all in, ten

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1 hours.
2 Q So we'll get to the time you
3 spent drafting the report. But in terms of your
4 preparation with Mr. Falvey, it sounds like you had
5 about five hours of prep time for this deposition?
6 A Oh, God, no, no, no, no. He and I --
7 no, no. It was about 20 minutes.
8 Q Okay.
9 A Or maybe 30 minutes.
10 Q Have you ever met Jim Donelson?
11 A I have.
12 Q How did you meet Jim Donelson?
13 A I met -- well, I've only seen him
14 once, and I have talked to him on the phone a few
15 times. And the way that I met, I was introduced to
16 him, was through Nick -- and I'm going to butcher
17 his last name -- Iavarone, who I believe Nick's --
18 which was -- Nick was Jim's previous attorney.
19 Q So before Mr. Iavarone introduced
20 you to Donelson, had you ever met Jim Donelson?
21 A No.
22 Q Do you know what Jim Donelson's
23 professional background is?
24 A No.

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1 Q Did you ask him?
2 A No.
3 Q Do you know when Jim Donelson purchased
4 Long Leaf Trading and became its principal?
5 A He sent me a document that stated
6 that he purchased it I want to say in -- like
7 sometime in '17, or was in negotiations with the
8 other individual in '17, if I recall correctly.
9 Q So it sounds like you don't know one
10 way or another whether or not before Jim Donelson
11 purchased Long Leaf Trading he had any experience
12 trading financial products on a professional basis?
13 A No.
14 Q What was Long Leaf's business model?
15 A To trade -- in essence, to trade options
16 and for the most part limit risk while giving the
17 clients an opportunity to get -- to make money.
18 Q And how did you come to that understanding?
19 A Just reviewing the trades that were
20 executed.
21 Q From information provided to
22 you by Donelson or Donelson's lawyers, right?
23 A Correct, yes.
24 Q Do you know who designed Long Leaf's

<p style="text-align: right;">Page 13</p> <p>1 trades?</p> <p>2 A No. I think it was like Evan or</p> <p>3 something Evans. I don't. I don't. I don't know</p> <p>4 that answer.</p> <p>5 Q Do you know a guy named Timothy Evans?</p> <p>6 A No.</p> <p>7 Q Do you know a guy named Scott Gecas?</p> <p>8 A No.</p> <p>9 Q And you're aware that the CFTC sued</p> <p>10 Long Leaf Trading and Donelson and some of the</p> <p>11 Long Leaf brokers?</p> <p>12 A That's why I'm here, I'm guessing.</p> <p>13 Q I think your report says that you reviewed</p> <p>14 the complaint in the case?</p> <p>15 A I reviewed the trades of the case</p> <p>16 because I'm not an attorney. I'm just a trader.</p> <p>17 Q Okay.</p> <p>18 A But I reviewed some -- but I did</p> <p>19 review some of the complaint and -- to make sure</p> <p>20 that I -- that they were in connection to the</p> <p>21 trades.</p> <p>22 Q Okay, yeah. We'll get to those</p> <p>23 docs in a little while. I'm just asking if</p> <p>24 you've reviewed the CFTC's complaint in this --</p>	<p style="text-align: right;">Page 15</p> <p>1 or by Long Leaf Trading?</p> <p>2 A Long Leaf Trading.</p> <p>3 Q Is there a written agreement between</p> <p>4 you and Long Leaf?</p> <p>5 A No. When Nick introduced us, we just</p> <p>6 agreed to work together.</p> <p>7 Q And you're being compensated for this</p> <p>8 engagement, I take it?</p> <p>9 A Yes.</p> <p>10 Q And what are you charging Long Leaf?</p> <p>11 A \$600 an hour.</p> <p>12 Q Is that the same rate that you</p> <p>13 charged in connection with the report that you</p> <p>14 submitted during the Wells process back in 2020?</p> <p>15 A I believe so.</p> <p>16 Q Has Long Leaf paid your invoices?</p> <p>17 A I'm sorry?</p> <p>18 Q Has Long Leaf paid your invoices for your</p> <p>19 services rendered in this case?</p> <p>20 A Yes, we are current.</p> <p>21 Q I just mentioned a document that I'd</p> <p>22 like to show you real quick. So, Mr. Burnside,</p> <p>23 I'm showing you an exhibit that I'll mark as CFTC</p> <p>24 Exhibit 508.</p>
<p style="text-align: right;">Page 14</p> <p>1 A I wouldn't say (inaudible). Just in</p> <p>2 general, though, yes.</p> <p>3 Q Sorry. We're talking over each</p> <p>4 other a little bit, and I think it's my fault.</p> <p>5 I'll just clarify. Are you aware that the CFTC</p> <p>6 sued Long Leaf?</p> <p>7 A I'm sorry. I didn't hear that question.</p> <p>8 Q Are you aware that the CFTC sued Long Leaf?</p> <p>9 A Yes.</p> <p>10 Q Do you have an understanding of the</p> <p>11 nature of the CFTC's claims against Long Leaf?</p> <p>12 A Yes.</p> <p>13 Q What is that understanding?</p> <p>14 A In my opinion, it's that the trades</p> <p>15 that were made were -- could never be profitable</p> <p>16 for the clients.</p> <p>17 Q How did you form that understanding?</p> <p>18 And I understand you're not an attorney, and I'm</p> <p>19 not asking you for your legal analysis. But how</p> <p>20 did you form your understanding of the nature of the</p> <p>21 CFTC's claims against Long Leaf?</p> <p>22 A I thought I read it in one of the --</p> <p>23 as I was perusing the documents.</p> <p>24 Q Are you engaged by Jim Donelson personally</p>	<p style="text-align: right;">Page 16</p> <p>1 (Whereupon CFTC Exhibit No. 508</p> <p>2 was marked for identification.)</p> <p>3 Q It's a document that's titled Declaration</p> <p>4 of John Burnside at the top, and I'll scroll down</p> <p>5 to the bottom.</p> <p>6 A Hold on, hold on. Yeah, okay.</p> <p>7 Q So at the top you can see that</p> <p>8 Exhibit 508 says Declaration of John Burnside.</p> <p>9 It's a three-page PDF. I'm just going to scroll</p> <p>10 through it quickly just to show that it's dated and</p> <p>11 signed by you.</p> <p>12 A Okay.</p> <p>13 Q Do you see that it's dated January 22,</p> <p>14 2020, your name, and do you recognize that as your</p> <p>15 signature?</p> <p>16 A I do.</p> <p>17 Q Okay. So this document is titled</p> <p>18 a declaration. So can we agree to call this your</p> <p>19 declaration and then we can call Exhibit 507 your</p> <p>20 report, if there's any confusion today?</p> <p>21 A Sure.</p> <p>22 Q It's important to keep these two documents</p> <p>23 separate in our minds.</p> <p>24 A Okay.</p>

<p style="text-align: right;">Page 17</p> <p>1 Q So we've got our declaration from 2020 2 and your report from 2021. Did you write those 3 documents? 4 A The declaration I did not write, but 5 the report I did. Again, I'm not an attorney. 6 Q Who wrote the declaration? 7 A I honestly do not recall. 8 Q Is it fair to summarize the declaration 9 as a document that you received, you've reviewed 10 and then you executed? 11 A Yes. 12 Q Do you agree with all the things that 13 are written in there? 14 A I haven't looked at it in two years -- 15 or a year and a half or whatever. 16 Q At the time you signed it back in 17 January 2020, do you think it's probably correct 18 that you agreed with the content of the document 19 when you executed it? 20 A I would agree with that. 21 Q And so Exhibit 507 is your report from 22 August of 2021. Can you describe the process by 23 which you actually drafted it? 24 A Sure. I reviewed some of the trades --</p>	<p style="text-align: right;">Page 19</p> <p>1 A No. I honestly had forgotten about the 2 declaration. 3 MR. PLATT: I'm going to show you 4 a document that I'm going to mark as CFTC 5 Exhibit 509, and this was sent to us by Long 6 Leaf Trading. 7 (Whereupon CFTC Exhibit No. 509 8 was marked for identification.) 9 Q I believe it's -- do you recognize this 10 as your resumé? 11 A Yeah, my CV, sure. 12 Q Is this a complete and accurate 13 description of your employment history from 1999 14 through the present? 15 A It is. 16 Q I'll scroll down here. And do you 17 hold any professional licenses or registrations? 18 A I do not. 19 Q Have you ever held any professional 20 licenses or registrations? 21 A Yes, when I was with -- when I had 22 a broker-dealer, I had to have a Series 7. 23 Q Did you ever have any memberships 24 with the NFA?</p>
<p style="text-align: right;">Page 18</p> <p>1 some of the trades that were made and lumped them 2 into certain categories and then gave some specific 3 examples -- or some general examples of how things 4 could work in that regard, and that was why I put 5 it together as I did. 6 Q When you drafted your August 2021 7 report, did you start with your declaration and 8 work off of that document? 9 A I just -- what I did was review the 10 trades that were made and started to write down 11 what the general trading practices were and how 12 they would be lumped together as a general trading 13 practice. There were different kinds of trades that 14 were made and, therefore, I tried to segregate them 15 in that document. 16 Q My question is a little more mechanical. 17 When you actually sat down to put pen to paper or 18 fingers to keyboard -- 19 A Right. 20 Q -- did you start with the declaration and 21 work off of that document? 22 A No. 23 Q Did you incorporate any of the content 24 of the declaration into your August 2021 report?</p>	<p style="text-align: right;">Page 20</p> <p>1 A I did. 2 Q When was that? 3 A I owned a com seat -- I owned a com 4 seat for a few months back, I think it was in 1989, 5 and then I tried to get another trading system up 6 and running in -- when in the hell was that. That 7 might have been 2010 of a trading system, but it 8 never got off the ground and so we just dissolved 9 that company. 10 Q So on your CV here the first entry 11 is Susquehanna, and you were the lead trader in 12 a pit centered on providing quality markets. What 13 pit were you trading in at Susquehanna? 14 A It so states right there, in the McDonald's 15 trading pit. 16 Q What were the products that traded in 17 that pit? 18 A There was Anadarko Petroleum, Xerox, 19 Halliburton, JPMorgan. Those are the ones that 20 come to mind, Trans Oceanic. That was a long time 21 ago. 22 Q Were you trading single name securities 23 options? 24 A I'm sorry?</p>

<p style="text-align: right;">Page 21</p> <p>1 Q Were you trading single name securities</p> <p>2 options?</p> <p>3 A Yes.</p> <p>4 Q Were there any options on futures that</p> <p>5 traded in that pit?</p> <p>6 A No, sir.</p> <p>7 Q Were you making markets when you worked</p> <p>8 at Susquehanna?</p> <p>9 A Absolutely. I was the lead market maker.</p> <p>10 Q Describe the role of a market maker.</p> <p>11 A To make a bid and offer for public to</p> <p>12 trade off of.</p> <p>13 Q Would you describe a market maker's</p> <p>14 role as short-term trading or long-term trading?</p> <p>15 A Really, it wasn't based on that.</p> <p>16 It was based on providing liquidity to the</p> <p>17 marketplace.</p> <p>18 Q And the next entry is TD Options.</p> <p>19 When you worked at TD Options, what kind of trading</p> <p>20 were you doing?</p> <p>21 A Same, same trading.</p> <p>22 Q Market making in single name securities</p> <p>23 options?</p> <p>24 A Yes, and I was the lead trader in that</p>	<p style="text-align: right;">Page 23</p> <p>1 Q Describe the hedging strategy that</p> <p>2 you developed and implemented at Saliba Portfolio</p> <p>3 Management.</p> <p>4 A Sure. So -- well, if you -- in order</p> <p>5 to hedge a stock position, you may want to buy</p> <p>6 a put or sell a call or do a little bit of both,</p> <p>7 which is considered a collar strategy. And in</p> <p>8 regards to that, you can own the stock and the</p> <p>9 puts, which is similar to owning a call, and that</p> <p>10 was the implementation that I was trying to get</p> <p>11 Saliba Portfolio Management to encounter so that</p> <p>12 they could actually say when they were going to</p> <p>13 their client or their prospective meetings that</p> <p>14 they owned the stock and they hedged their stock</p> <p>15 position.</p> <p>16 Q So was Saliba all securities options</p> <p>17 as well?</p> <p>18 A They were.</p> <p>19 Q Was all your trading done at Saliba in</p> <p>20 the context of hedging?</p> <p>21 A Well, not all of it. Sometimes you</p> <p>22 had to roll a position. But, yes, inevitably it</p> <p>23 was to hedge a position.</p> <p>24 Q Just so the record's clear, a bunch</p>
<p style="text-align: right;">Page 22</p> <p>1 as well.</p> <p>2 Q And then the next entry in your CV here</p> <p>3 is G-Bar, LLC. What was G-Bar?</p> <p>4 A G-Bar's a company that would back</p> <p>5 market makers. So I left the lead market maker</p> <p>6 status and just became a regular market maker at the</p> <p>7 Chicago Board Options Exchange.</p> <p>8 Q What products did G-Bar make markets in?</p> <p>9 A At the time I was making markets</p> <p>10 in single stock, just like I was in at TD or</p> <p>11 Susquehanna, but I was not the lead market maker</p> <p>12 in this case.</p> <p>13 Q How about Saliba Portfolio Management,</p> <p>14 what were you doing at Saliba?</p> <p>15 A So at Saliba, I left Saliba --</p> <p>16 I mean, I left the floor and went to work with</p> <p>17 the Saliba Portfolio Management, and they were --</p> <p>18 they had a fund that traded stock options for their</p> <p>19 fund and they needed someone that had experience</p> <p>20 with options trading.</p> <p>21 Q And at Saliba it says that you</p> <p>22 developed and implemented profitable hedging</p> <p>23 strategies for multi-asset hedge fund portfolio.</p> <p>24 A Right.</p>	<p style="text-align: right;">Page 24</p> <p>1 of non-traders are going to read this transcript.</p> <p>2 When you use the term hedging, what do you mean?</p> <p>3 A So, again, you can either buy the stock</p> <p>4 itself and buy puts, which hedges the downside, and</p> <p>5 then sell calls on the upside, which hedges -- it's</p> <p>6 called a collar strategy or, as opposed to buying</p> <p>7 the puts and stock, you can just buy the calls and</p> <p>8 still sell calls above it -- in this case that would</p> <p>9 be considered a call spread -- and get the same risk</p> <p>10 parameters but at the same time hedge the underlying</p> <p>11 asset that you're trying to protect.</p> <p>12 Q Picking up on that -- sorry, I cut you</p> <p>13 off. Sorry.</p> <p>14 A No, no, no. So in either way the</p> <p>15 underlying -- the asset may move and you would have</p> <p>16 to readjust your hedge based upon time.</p> <p>17 Q So picking up on that last concept in</p> <p>18 your answer, Mr. Burnside, is it fair to say that</p> <p>19 hedging is more focused on protecting preexisting</p> <p>20 positions in other asset classes?</p> <p>21 A No.</p> <p>22 Q Okay. Why don't you explain what</p> <p>23 my summation is -- what's incorrect about my</p> <p>24 summation?</p>

<p style="text-align: right;">Page 25</p> <p>1 A You can open a position at any time and 2 do the same thing. 3 Q So the problem with my question 4 is that I inserted the concept of a preexisting 5 position into it? 6 A Right. 7 Q Okay, so let's back up. Is it fair 8 to summarize your description of a hedging strategy 9 as the use of options in connection with positions 10 in other asset classes to protect against movement? 11 A The protection would come from the 12 actual underlying of the same security. So you 13 would hedge -- hypothetically you would hedge an 14 Apple position with Apple options. You would hedge 15 an IBM position with IBM options. 16 Q Let me put the question a little 17 bit differently. If an options trader is engaged 18 in hedging activity, is the options trader trading 19 options for the purpose of generating profits 20 independent of other trading activity? 21 A No, because they can be getting dividend 22 income or something as well. 23 Q So have you ever entered a hedging 24 strategy for the purpose of generating profits</p>	<p style="text-align: right;">Page 27</p> <p>1 else you could say. Currencies, there's nothing 2 like that. 3 Q Are there any other products at 4 Freeboard Capital -- does Freeboard Capital trade 5 any other products other than securities? 6 A No, sir. 7 Q So we've looked at your experience 8 from 1999 through the present. And I think you 9 testified that during that time period you didn't 10 trade futures options at all, is that right? 11 A That is correct. 12 Q Have you ever traded futures options? 13 A I have. 14 Q When did you trade futures options? 15 A Again, it was a long time ago. I think 16 it was in 1989 during the drought, and I traded in 17 corn and soybeans. 18 Q How many trades did you make in futures 19 options? 20 A Then? 21 Q Ever. 22 A That was a busy summer. Probably 5,000, 23 10,000. 24 Q So your experience in trading futures</p>
<p style="text-align: right;">Page 26</p> <p>1 independent of other trading activity? 2 A Yes. 3 Q Okay. How about Freeboard Capital, 4 what did you do at Freeboard Capital? 5 A I was the risk manager/founder of the 6 Freeboard Capital model. 7 Q Freeboard Capital is a registered 8 investment advisor, right? 9 A That is correct. Federally registered. 10 Q That's two employees, one of whom is you? 11 A I'm sorry? 12 Q That's two employees, right, one of whom 13 is you? 14 A That's correct. 15 Q \$120 million in assets under management, 16 is that generally right? 17 A We have approximately 150 million of 18 notional value that we trade. 19 Q What financial products does Freeboard 20 Capital trade? 21 A Stocks. 22 Q Anything besides stocks? 23 A There are no futures. There's no 24 commodities. There's no -- I don't know what</p>	<p style="text-align: right;">Page 28</p> <p>1 options was limited to one summer in '88 or '89. 2 Do I have that right? 3 A That's correct. 4 Q In '88 and '89 futures options traded only 5 in pits, right? 6 A That's right. 7 Q They didn't trade on screens, right? 8 A That's correct. 9 Q Did traders in the pits in 1988 and '89 10 rely on any electronic devices? 11 A I don't recall any. 12 Q No computers, right? 13 A There might have been a few people 14 that had sheets which were computer generated, 15 but I did not. 16 Q No one was using a computer on the floor 17 in 1988 and '89, right? 18 A Right, correct. 19 Q Did anybody use a handheld tablet in 20 '88 or '89? 21 A Not to my knowledge. 22 Q As compared to now, did options on 23 futures trade faster or slower in '88 and '89? 24 A I would say slower.</p>

<p style="text-align: right;">Page 29</p> <p>1 Q I agree with that.</p> <p>2 MR. PLATT: So I'm going to show you</p> <p>3 what I'm going to mark as CFTC Exhibit 510.</p> <p>4 (Whereupon CFTC Exhibit No. 510</p> <p>5 was marked for identification.)</p> <p>6 Q I just want to go back to your time at</p> <p>7 Saliba Capital real quick. Are you able to see CFTC</p> <p>8 Exhibit 510, Mr. Burnside?</p> <p>9 A Sure.</p> <p>10 Q Do you know what NFA BASIC is?</p> <p>11 A NFA what?</p> <p>12 Q NFA BASIC, do you know what that</p> <p>13 functionality is?</p> <p>14 A No.</p> <p>15 Q Do you see at the top of CFTC</p> <p>16 Exhibit 510 it says NFA ID: 0330807 and then it</p> <p>17 says --</p> <p>18 A I do.</p> <p>19 Q -- Saliba Portfolio Management, LLC?</p> <p>20 A I do.</p> <p>21 Q Is that the company you worked for?</p> <p>22 A It was.</p> <p>23 Q So I just scrolled down to the second</p> <p>24 page of Exhibit 510. Do you see there's a series</p>	<p style="text-align: right;">Page 31</p> <p>1 Q So at Saliba, you were aware that</p> <p>2 Saliba traded client money. That was at least part</p> <p>3 of their business, right?</p> <p>4 A Correct, correct.</p> <p>5 Q Was that trading -- do you know</p> <p>6 what I mean when I -- have you ever heard the term</p> <p>7 discretionary trading?</p> <p>8 A Yes.</p> <p>9 Q What does that mean to you?</p> <p>10 A It means that you're trying to do the</p> <p>11 best trades for the clients.</p> <p>12 Q Do you also understand that it means</p> <p>13 that the advisor has authority to execute trades</p> <p>14 without seeking permission from the client?</p> <p>15 A Yes.</p> <p>16 Q Was Saliba's trades discretionary</p> <p>17 or nondiscretionary?</p> <p>18 A I would get orders from my boss to make</p> <p>19 trades.</p> <p>20 Q Do you have an understanding as to</p> <p>21 whether or not Saliba's trading was done on behalf</p> <p>22 of clients in a discretionary manner?</p> <p>23 A I do not know that.</p> <p>24 Q Okay, yeah. That's the answer then. What</p>
<p style="text-align: right;">Page 30</p> <p>1 of dated entries? There's an entry, April 1, 2011,</p> <p>2 commodity trading advisor registered?</p> <p>3 A Okay, yes.</p> <p>4 Q Does this refresh your recollection that</p> <p>5 Saliba Capital Management was a commodity trading</p> <p>6 advisor?</p> <p>7 A I did not know that. I was not -- I'm</p> <p>8 not a partner, nor a principal of that entity, so</p> <p>9 I would have no idea what they're doing.</p> <p>10 Q Did Saliba recommend trades to customers?</p> <p>11 A Did they what?</p> <p>12 Q Recommend trades to customers.</p> <p>13 A I honestly don't know.</p> <p>14 Q How did Saliba make money?</p> <p>15 A We had a couple -- we had -- for the</p> <p>16 fund that I was working with, they had a couple</p> <p>17 clients and that's all I traded.</p> <p>18 Q Saliba was trading --</p> <p>19 A Other than that, they could have</p> <p>20 a lot of things going on in their world that</p> <p>21 I don't know about, that I'm not involved in.</p> <p>22 Q I understand. I'm only asking you about</p> <p>23 the things that you know.</p> <p>24 A Right.</p>	<p style="text-align: right;">Page 32</p> <p>1 about at Freeboard, does Freeboard have discretion</p> <p>2 to trade for clients?</p> <p>3 A We do.</p> <p>4 MR. PLATT: I'm going to show you what</p> <p>5 I'm marking as CFTC Exhibit 511.</p> <p>6 (Whereupon CFTC Exhibit No. 511</p> <p>7 was marked for identification.)</p> <p>8 Q Mr. Burnside, I'll represent to you that</p> <p>9 this is a printout of Freeboard Capital's website,</p> <p>10 and I'll scroll down to the About Us portion. Do</p> <p>11 you see your bio there?</p> <p>12 A I do.</p> <p>13 Q It says that you created the basis</p> <p>14 of the Freeboard Capital income investment strategy</p> <p>15 to create returns while managing risk. What is</p> <p>16 Freeboard's --</p> <p>17 A That is correct.</p> <p>18 Q What is Freeboard Capital's investment</p> <p>19 strategy?</p> <p>20 A To purchase stocks that pay dividends</p> <p>21 while at the same time hedging the stocks that</p> <p>22 we purchase. Most of the time our stocks pay</p> <p>23 dividends.</p> <p>24 Q How does Freeboard Capital hedge its</p>

<p style="text-align: right;">Page 33</p> <p>1 stock positions?</p> <p>2 A With options.</p> <p>3 Q Are there any other components</p> <p>4 of Freeboard Capital's investment strategy other</p> <p>5 than buying stocks that may pay dividends and</p> <p>6 hedging those stocks?</p> <p>7 A You could -- in the simplest terms</p> <p>8 you could call it a collar strategy.</p> <p>9 Q But there's no other components</p> <p>10 of Freeboard Capital's investment strategy other</p> <p>11 than what we've just discussed?</p> <p>12 A Some clients have asked to get into some</p> <p>13 ETFs, but that's a -- you know, it's just a bundle</p> <p>14 of stocks together or what have you, but all of them</p> <p>15 are always covered with downside puts to protect the</p> <p>16 capital of the clients. Oh, by the way, I will say</p> <p>17 unless someone has a different agenda with their</p> <p>18 own account.</p> <p>19 Q Can you explain a little further what</p> <p>20 you mean?</p> <p>21 A Sure. So like I have one client that he</p> <p>22 wants to be long in the stock, so he doesn't follow</p> <p>23 the protocol of our normal trading. He actually</p> <p>24 likes to sell those puts so they can generate cash</p>	<p style="text-align: right;">Page 35</p> <p>1 Q Yeah.</p> <p>2 A Yeah. Well, the one thing is --</p> <p>3 with Freeboard Capital is we don't have many</p> <p>4 clients, so we definitely communicate with the</p> <p>5 clients regularly. We don't try to be everything</p> <p>6 to everybody. We try to just help the people that</p> <p>7 we have as clients.</p> <p>8 Q When Freeboard Capital gets new</p> <p>9 customers, do they want to know how the fund has</p> <p>10 performed in the past?</p> <p>11 A Well, they do, but each individual</p> <p>12 account is different as -- for example, someone</p> <p>13 might deposit a concentrated stock position and they</p> <p>14 don't want to lose their stock. That's a different</p> <p>15 kind of a trade than someone that may just deposit</p> <p>16 just plain cash and we go out and purchase stocks</p> <p>17 and hedge those stocks.</p> <p>18 Q When a prospective customer asks</p> <p>19 Freeboard Capital about its track record, what</p> <p>20 kind of information does Freeboard Capital provide?</p> <p>21 A It's funny you ask that question</p> <p>22 because people say we don't have any one set</p> <p>23 way to denominate that. We're trying to get that</p> <p>24 established, but it's more difficult than you</p>
<p style="text-align: right;">Page 34</p> <p>1 flow for his account. And if the stock goes down,</p> <p>2 he wants to buy more stock. And he takes more risks</p> <p>3 than any other client, and I've so told him that and</p> <p>4 he understands.</p> <p>5 Q To the extent that he's deviating</p> <p>6 from the normal strategy at Freeboard, that's this</p> <p>7 particular client's own decision making, is that</p> <p>8 right?</p> <p>9 A That's correct.</p> <p>10 Q When is the last time Freeboard Capital</p> <p>11 got a new client on board?</p> <p>12 A Well, this individual that I speak of,</p> <p>13 he was referred to me -- I believe they came over --</p> <p>14 well, that guy came over in January. I just got</p> <p>15 another one in -- I think his money transferred</p> <p>16 earlier this month into the account, yeah. I mean,</p> <p>17 that's my newest one, this gentleman from Austin,</p> <p>18 Texas. If it wasn't in September, it was in late</p> <p>19 August. I think you get the idea.</p> <p>20 Q When Freeboard Capital gets new clients,</p> <p>21 do they want to know how the fund has performed in</p> <p>22 the past?</p> <p>23 A I'm sorry. Do the clients want to</p> <p>24 know how?</p>	<p style="text-align: right;">Page 36</p> <p>1 think.</p> <p>2 Q Did you ever provide any --</p> <p>3 A Because people want to take different</p> <p>4 risks and people have different investments and</p> <p>5 people have different assets that they're bringing</p> <p>6 to the table.</p> <p>7 Q Does Freeboard Capital provide</p> <p>8 any information about historical performance</p> <p>9 to prospective clients?</p> <p>10 A I'm sure that there has been, but</p> <p>11 at the same time it is -- it's difficult when you</p> <p>12 have many different investment philosophies going</p> <p>13 at the same time but utilizing the same underlying</p> <p>14 premises.</p> <p>15 Q So what information does Freeboard</p> <p>16 Capital provide about historical performance to</p> <p>17 prospective customers?</p> <p>18 A What we do provide is trying to limit</p> <p>19 risk and try to create returns and yet at the same</p> <p>20 time many -- you know, many of my people want to</p> <p>21 know how much they have at risk in the marketplace</p> <p>22 on a regular basis.</p> <p>23 Q So I'm not asking about existing</p> <p>24 customers. I'm asking about prospective customers.</p>

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1 So when --

2 A And that is the case as well

3 because many people that we communicate may

4 not want necessarily the high returns. They just

5 don't want to have the big losses. They want to

6 know that their downside is protected.

7 Q I think your testimony, Mr. Burnside, is

8 that Freeboard Capital does not provide historical

9 performance information to prospective clients?

10 A We have in the past, but it has been --

11 my business partner has his account and we offer

12 his account as a sampling, but then he ran out --

13 he needed the money to live, so that account has

14 been dwindled down. And, therefore, we have enough

15 clients at this point that they feel comfortable

16 with what we're doing.

17 Q It sounds like you can't provide

18 a clear answer about the track record information

19 that Freeboard Capital provides to its customers,

20 so I'm just going to move on.

21 A Okay.

22 Q Does Freeboard Capital create annual

23 or quarterly performance reports for the fund?

24 A There is no fund itself. I think

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1 that's maybe where you're getting hung up on.

2 We had a -- we had my business partner's account,

3 which was kind of the starter pit, shall I say, for

4 this project. But then, as I said, other clients

5 have come in, felt comfortable. They brought other

6 stock. They brought other risk parameters. They

7 brought dynamics to the table where it is not --

8 this is -- what the problem is with our business

9 model is, it's not scaleable. This is why we only

10 have a certain number of clients. It's not a

11 scaleable event that people always want to talk

12 about.

13 Q Does Freeboard Capital create quarterly

14 or annual reports?

15 A No, it comes from the broker-dealer.

16 I do help clients when they're looking for those

17 returns. I do help them get to that because

18 sometimes they're challenged, shall I say, finding

19 it in the report status.

20 Q I'm going to go back to your CV,

21 Mr. Burnside, which is Exhibit 509. You've got

22 some bullets here under a heading called Subject

23 Matter Expertise Engagements. Do you see that?

24 A Yep.

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1 Q On the second bullet point it

2 says: "Expert witness on trading strategies

3 and procedures." Can you list all the engagements

4 where you've acted as an expert witness on trading

5 strategies and procedures, please.

6 A Sure. No. 1 was the Quiddity

7 when Quiddity was being -- I don't know what

8 the right word choice is, was having discussions

9 with the CFTC. I was brought in there. I was

10 also -- when I was the business conduct chairman

11 of the Chicago Board Options Exchange, I was asked

12 many times to come up with why people would be doing

13 things because it was during 9/11, and many of the

14 market reg slash people would come up and ask me

15 what I thought of different trades, and I gave my

16 personal opinion on the trading strategies and what

17 they meant and what I perceived as a trade. And

18 in many other situations just -- I've also been

19 in a case involved with people just establishing

20 a class on options trading and the procedures on

21 how to enter orders and so on and so forth.

22 Q Have any of those engagements been in the

23 last ten years?

24 A Well, yeah, the Quiddity one was in '13.

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1 So that was eight years ago or whatever. I think

2 it was '13.

3 Q That's the only one that's been in the

4 last decade?

5 A Sure.

6 Q And the third bullet here under Subject

7 Matter Expertise Engagements --

8 A I'm sorry?

9 Q So just to circle back to your expert

10 witness engagements, were those matters before a

11 court or a tribunal or to whom were you providing

12 your expert opinion?

13 A In the Quiddity case it was just

14 as I'm doing now, having a deposition. In the --

15 when I was dealing with the 9/11 stuff, it was

16 for the benefit of, I guess you'd call it Homeland

17 Security because they wanted to know how those

18 trades -- if those trades were planned ahead of

19 time. And I was trying to help them as much as I

20 could to see if there was people that were making

21 trades in that -- in defense stocks ahead of time,

22 that they might have been available to create money,

23 profitable trades. And then finally in regards to

24 the writing the procedures, the classes that I've

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1 developed for other people. I mean, whether they
2 used them or not, they paid me for them, and that
3 was what my point was.
4 **Q So was the development of the**
5 **procedures, that wasn't in connection with a**
6 **litigation or dispute, right? That was helping**
7 **someone create a set of policies?**
8 A Yeah, I -- yes, that's correct.
9 **Q And so the third bullet point here on**
10 **your Subject Matter Expertise Engagements is that**
11 **you served on the CBOE Business Conduct Committee.**
12 **What is the --**
13 A Yeah.
14 **Q -- CBOE?**
15 A Chicago Board Options Exchange.
16 **Q And what is the Business Conduct Committee**
17 **at the CBOE responsible for?**
18 A It's a liaison committee between the
19 SEC and the Department of Justice and the Chicago
20 Board Options Exchange.
21 **Q What's it responsible for?**
22 A Rules and regulations, new procedures,
23 pretty much -- ethics on the floor. That's pretty
24 much a catchall for like -- I'll say like an

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1 attorney environment for the exchange.
2 **Q So does it deal with disciplinary matters**
3 **at the exchange level?**
4 A It does.
5 **Q And you were the chair from 2001 to 2003,**
6 **right?**
7 A That's correct.
8 **MR. PLATT:** Let's take a break.
9 We've been going for about an hour. Maybe
10 ten minutes.
11 **THE WITNESS:** Sure, whatever.
12 **MR. PLATT:** Let's go off the record.
13 (Whereupon a recess was taken from
14 9:30 a.m., to 9:47 a.m., after which
15 the following proceedings were had:)
16 **MR. PLATT:** It's 9:47. We're back on the
17 record with the deposition of John Burnside.
18 Let the record reflect that Mr. Falvey is no
19 longer present with Mr. Burnside and we'll
20 proceed.
21 **Q Let's go through some background terms,**
22 **Mr. Burnside, because when we get to your report**
23 **and discuss that, I want to make sure that we're**
24 **all on the same page about what these technical**

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1 **terms mean.**
2 A Sure.
3 **Q What is an option?**
4 A The right to buy or sell a security
5 or asset at a certain price at a certain time.
6 **Q What does the term underlier mean in the**
7 **context of options?**
8 A Underlier is the -- whatever asset you're
9 trading.
10 **MR. PLATT:** Let the record reflect
11 that Mr. Falvey's returned to Mr. Burnside's
12 office.
13 **MR. FALVEY:** Apologies.
14 **BY MR. PLATT:**
15 **Q So the underlier can be the security**
16 **or the future that the option references. Do you**
17 **agree with that?**
18 A I agree.
19 **Q What does it mean for an option to be**
20 **in the money?**
21 A That it has intrinsic value.
22 **Q What's intrinsic value?**
23 A The amount of money that the option
24 is worth in relation to the underlying asset.

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1 **Q What does it mean for an option to expire?**
2 A Is that it either becomes worthless
3 or it turns into the asset that it is representing.
4 **Q It's the date on which the holder of the**
5 **option can exercise the option, right?**
6 A It's automatically -- it's automatically
7 if it's in the money.
8 **Q What are some of the reasons that people**
9 **trade options?**
10 A You can hedge previous positions.
11 You can speculate. You can speculate on future
12 movements. You can create strategies to limit risk
13 while generating profits. Many different reasons
14 to trade options.
15 **Q Other than the three that you just**
16 **mentioned, hedge positions, speculate on future**
17 **movement or create strategies to generate profit**
18 **while limiting risk, can you think of any other**
19 **commonly employed options strategies or commonly**
20 **employed reasons that people trade options?**
21 A I'm sure there's some but none come to
22 the top of my head.
23 **Q If it was common, do you think it**
24 **would be at the top of your head right now, given**

<p style="text-align: right;">Page 45</p> <p>1 your experience trading securities options? 2 A Well, my experience in trading 3 options is pretty lengthy, and so I'm sure that 4 I'm missing -- I could miss something just because 5 of the environment of trying to answer the question 6 so ... 7 Q I'm not sure what that means, but we'll 8 move on. Options can be puts or calls, right? 9 A I'm just saying I don't do this every day. 10 Q I understand. My question is simply 11 you've explained that you have a long history of 12 trading securities options. You listed three common 13 reasons that people trade options. And my question 14 is if there are other common options and you can't 15 think of them, they probably don't exist, right? 16 A That's not true. I mean, I guess the 17 other option -- the other alternatives are just 18 buying options outright and betting on a direction 19 of the underlying. 20 Q So you said speculate on future 21 movements. So maybe that would fall under that 22 category? 23 A Yep, that's right. 24 Q Okay. Options can be puts or calls,</p>	<p style="text-align: right;">Page 47</p> <p>1 Q I didn't understand that. What was that? 2 What was the answer? 3 A So both puts and calls can expire 4 worthless if the asset class goes out at strike. 5 Q Okay. So that would be out of the money? 6 A Well, no. That would be at the money. 7 Q Okay. So an option can either 8 expire in the money, at the money or out of the 9 money, right? 10 A That is correct. 11 Q And if an option expires at the money, 12 does the holder of the option realize a trading 13 gain? 14 A So are you saying that they're long or 15 short? 16 Q If the holder of an option that expires 17 at the money exercises the option at expiration, 18 is that going to result in profits? 19 A No. 20 Q I'm just trying to put this in a way 21 that makes sense. Do you agree that any option is 22 capable of being profitable? 23 A I do. 24 Q In the case of, for example, a single</p>
<p style="text-align: right;">Page 46</p> <p>1 correct? 2 A Correct. 3 Q What's the difference between a put 4 and a call? 5 A Call gives you the right to buy the 6 asset at a certain price at a certain time, and 7 a put gives you the right to sell the asset at a 8 certain price at a certain time. 9 Q And a strike price is what you mean 10 when you say the right to buy or sell the underlier 11 at a certain price, right? 12 A That's correct. 13 Q How do you determine whether an option 14 is profitable? 15 A If you make money on it. 16 Q How do you know if you make money on 17 an option? 18 A If you sell it for more than you buy it 19 or buy it for less than you sold it. 20 Q Is it correct to say that every option 21 expires in the money or out of the money? 22 A No. 23 Q What's incorrect about that statement? 24 A Some expire both worthless.</p>	<p style="text-align: right;">Page 48</p> <p>1 name security call option, if the underlier goes up, 2 does that mean that the option will be profitable? 3 A No. 4 Q Why not? 5 A Volatility could be too high when the 6 purchaser bought the call. It may not have gone up 7 far enough to become -- even though the call option 8 is in the money, it may not have gone up as much as 9 they paid in premium. Those are the examples -- so 10 you could in theory lose money on the option, yet 11 the price of the underlying went the proper 12 direction. 13 Q So I agree with you, Mr. Burnside. 14 Is it fair to say that to determine whether any 15 particular option is profitable, you need to analyze 16 a whole bunch of factors? 17 A Yes. 18 Q Including, you know, the movement 19 of the underlier, the strike price, the premium, 20 costs and commissions and potentially other factors, 21 right? 22 A The costs and commissions I'm not as 23 familiar with because things have really come down 24 due to the electronic trading. But definitely in</p>

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1 the other cases, you definitely have -- the other
2 thing that you're missing is time.
3 **Q We've used the term premium. What do you**
4 **mean by premium?**
5 A Premium's the amount of the price of the
6 option.
7 **Q How are options priced?**
8 A Well, there's many different ways to price
9 options, but the most common way is Black-Scholes.
10 **Q What's Black-Scholes?**
11 A It's a formula that Dr. Black and
12 Dr. Scholes developed in the early '70s that took
13 five different variables to figure out the pricing
14 of the underlying -- excuse me, of the option.
15 **Q Do you have an understanding of what**
16 **those variables that impact the price of an option**
17 **under the Black-Scholes model are?**
18 A Strike, stock price, time, dividend,
19 interest rate.
20 **Q Are you familiar with the term implied**
21 **volatility?**
22 A I am.
23 **Q What does implied volatility mean?**
24 A Where the at-the-money volatility is

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1 trading of the option and of the asset.
2 **Q What about historic volatility, what does**
3 **that mean?**
4 A Historic volatility is where the asset has
5 historically moved on a volatility basis.
6 **Q How is the implied volatility of a futures**
7 **contract determined?**
8 A Well, there's really two ways. The
9 real way that it's established is through supply
10 and demand, and until supply and demand are met you
11 really don't know what the volatility will be.
12 **Q What role does implied volatility play in**
13 **options pricing?**
14 A A significant role.
15 **Q Do you agree that -- and I'm going to**
16 **speak a little bit in laymen's terms here, so**
17 **correct me if this is too general. Do you agree**
18 **that implied volatility is based into the price of**
19 **an options premium?**
20 A The implied volatility is where the option
21 is actually created, right? That's it.
22 **Q You tell me. What does implied volatility**
23 **mean to you? I think you gave a slightly different**
24 **response earlier.**

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1 A Implied volatility is where the
2 option's trading. And, again, this goes back to
3 the supply and demand.
4 **Q Isn't the price of the premium where an**
5 **option is trading?**
6 A I'm sorry? What was that question?
7 **Q You said that implied volatility is**
8 **where the option is trading. And my question is**
9 **isn't the price of the premium where the option is**
10 **trading?**
11 A The price of the premium is equal to
12 the implied volatility of the underlying. Implied
13 volatility and premium are basically synonymous, and
14 it depends on what contract you're referring to and
15 how long you're going out on what the premium is
16 versus what the implied volatility is.
17 **Q Do you agree that different underliers**
18 **have different implied volatilities?**
19 A Absolutely.
20 **Q Future events may cause implied volatility**
21 **to fluctuate for any particular underlier, correct?**
22 A Correct.
23 **Q For example, like if there's a release**
24 **of news, that might increase implied volatility**

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1 **because traders expect the news will have some**
2 **impact on the instrument, right?**
3 A Correct.
4 **Q Do you agree that any event-driven**
5 **increase in volatility is automatically reflected**
6 **in the price of the option?**
7 A Not automatically, but it has a tendency
8 to do so.
9 **Q Because the market recognizes the supply**
10 **and demand, right?**
11 A That's correct.
12 **Q Are implied volatilities between different**
13 **futures contracts ever correlated?**
14 A Well, they have -- it could -- the
15 different futures contracts could have different
16 meanings. It's almost like a different asset class.
17 So they could be correlated or they could not be
18 correlated.
19 **Q Can you think of an example where**
20 **futures contracts have correlated volatilities?**
21 A Sure. Let's just -- let's say that --
22 let's say that a crop, we have a crop and the new
23 crop comes out in November but you're trading the
24 June and the September options contracts, which

<p style="text-align: right;">Page 53</p> <p>1 is the old crop. Those are correlated together. 2 But this new contract, call it the November 3 contract, may have a different correlation to 4 these other two, which could be because there's 5 some kind of event or something that's going on. 6 Q So I think you're describing potential 7 correlation in the same futures contract but over 8 different time horizons? 9 A Correct. 10 Q And what about for different futures 11 contracts? Like could gold be correlated to silver 12 futures? 13 A I'm sure that there is some 14 correlation, but at the same time -- I know 15 that there's a correlation to the two of them in 16 this case, in your example. But at the same time, 17 remember sometimes those correlations do fall apart. 18 Q Is the volatility of soybean futures 19 correlated to the volatility of Treasury bond 20 futures? 21 A I would say no. They're independent 22 events. 23 Q Is the volatility of corn futures 24 correlated with the volatility of gold futures?</p>	<p style="text-align: right;">Page 55</p> <p>1 Q And the owner of the call or put pays 2 the premium, right? 3 A That's correct. 4 Q What does it mean to be short an option? 5 A That the person that sold the option 6 collects that money and is liable for any movement 7 beyond that price. 8 Q Earlier you mentioned commissions. 9 In the context of options trading, do you agree 10 that a commission is generally a per contract 11 transaction-based fee? 12 A Again, it could be or it could be 13 a general fee. I don't know. It depends on your 14 clearing firm. 15 Q In the case of a transaction-based 16 fee, what is your understanding of prevailing market 17 rates for one options contract? 18 A I don't have any knowledge of the 19 values because we try to get our option fees for 20 free. 21 Q Are you successful in getting your option 22 fees for free? 23 A Not always, but sometimes. 24 Q When you do pay commissions on your</p>
<p style="text-align: right;">Page 54</p> <p>1 A Not that I've ever traded, but I'm going 2 to say no. 3 Q You've never traded those two markets, 4 is that your testimony? 5 A I've traded corn and I've traded 6 gold, but I've not ever -- but I would never do a 7 correlated trade unless I did a bunch of backtests, 8 you know, on how it was correlated, and I just have 9 never done that. 10 Q Is it your testimony that corn futures 11 are not correlated to gold futures? 12 A In general, yes. 13 Q Are oil futures correlated to wheat 14 futures? 15 A Again, I don't know the correlation. 16 I've not done any research, but in general I would 17 say no. 18 Q Is the volatility of Japanese yen 19 futures correlated with the volatility of lean 20 hog futures? 21 A I will say the same response. In general 22 I don't know, but I would say no. 23 Q What does it mean to be long an option? 24 A It means they own a call or a put.</p>	<p style="text-align: right;">Page 56</p> <p>1 options, can you ballpark how much your firm pays? 2 A Somewhere in the vicinity of 40¢, I want 3 to say. 4 Q Per contract? 5 A Yeah, I think that's right. 6 Q So it varies between 40¢ and free per 7 options contract for the trading you do? 8 A It depends, yeah. There's lots 9 of dependence upon what you're doing, whether 10 you're closing a very nominal valued option and 11 getting it off your sheets, things on those natures. 12 But, again, I'm not a commission knowledgeable 13 individual. 14 Q Other than the extent to which 15 you pay commissions for the trading that you do in 16 a professional capacity, right? 17 A That is correct. 18 Q So we've discussed this a little bit, 19 but some options trades are composed of multiple 20 options together, right? 21 A Correct. 22 Q Is it fair to call that a multi-legged 23 strategy? 24 A I would call it a multi-legged strategy.</p>

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1 **Q Each option is a separate leg of the trade?**
2 A Correct.
3 **Q What does the term spread trade mean?**
4 A A spread is when you purchase one option
5 and sell another option.
6 **Q Generally a strategy composed of two legs?**
7 A Two options, one trade.
8 **Q Right. A spread trade is generally**
9 **composed of two options, right?**
10 A That's correct.
11 **Q Do you know what a Monte Carlo simulation**
12 **is?**
13 A I do.
14 **Q What is it?**
15 A You throw a bunch of probabilities into
16 a computer and it spits out where the probability
17 is of the outcome. I've never done one. I've
18 just done a little research on them and you can
19 do it for stocks, futures, fuel, whatever you want.
20 There's all kinds of different ...
21 **Q What is your understanding as a market**
22 **professional as to why options traders use Monte**
23 **Carlo simulations?**
24 A Because there are a lot of variables

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1 that can happen in the marketplace.
2 **Q Are Monte Carlo simulations used**
3 **to determine what the most likely outcome of**
4 **a trading strategy might be? Is that one way to**
5 **use it?**
6 A Could be, yeah.
7 **Q Earlier you used the term backtest.**
8 **What does it mean to backtest an options strategy?**
9 A When I was using that, I was using
10 the backtest as a correlation between two asset
11 classes and how they moved in relationship together.
12 I think it was the gold versus corn. I may be
13 wrong, but we could take a look at the notes.
14 But, I mean, I would look at how gold performed
15 versus the corn and see how they moved in
16 correlation together.
17 **Q Do options traders ever backtest**
18 **multi-legged strategies?**
19 A With multi-legs it's fairly difficult
20 because you have multiple inputs and you have
21 multiple variances that can occur.
22 **Q Before an options trader places**
23 **a multiple-legged strategy, is there a way to**
24 **determine whether or not the trade is more likely**

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1 **to be profitable than not?**
2 A When you place a multi-legged
3 strategy together, you know where your maximum
4 profit could be, where your maximum loss could
5 be, and in the meantime it mitigates -- because
6 in a spread you're going to be long one and short
7 one. So, therefore, it will mitigate your risk as
8 well.
9 **Q In addition to determining maximum**
10 **profitability and maximum potential loss, is there**
11 **any way that an options trader can determine whether**
12 **or not a spread is likely to achieve profitability**
13 **before the trade is placed?**
14 A There's no guarantee.
15 **Q So the question isn't asking whether**
16 **or not there's a guarantee. I'm asking about**
17 **likelihood. Is there a way that a trader before**
18 **he or she places a multi-legged options trade can**
19 **determine whether or not a trade is likely to make**
20 **money?**
21 A When you put a multi-legged trade on,
22 again, what you're trying to do is mitigate risk
23 while at the same time give you profit potential.
24 Now, is there a probability of that being a winner?

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1 Yes, but then there's also a probability of it
2 being a loser as well.
3 **Q How do you determine whether or**
4 **not a multi-legged strategy has a probability**
5 **of profitability?**
6 A Probabilities are nothing more
7 than deltas of each option and how much -- and the
8 probability they will be in the money at expiration.
9 **Q So I'm not sure I understand the**
10 **response, so let me back up to your earlier answer.**
11 **I asked if there was a way to determine whether or**
12 **not it was -- a trader could determine whether or**
13 **not it was likely for a multi-legged options trade**
14 **to be profitable before placing the trade. Do you**
15 **remember that question?**
16 A Yeah, I do recall that question.
17 **Q And I think your answer was there's**
18 **a way to determine the probability that a trade**
19 **would be profitable.**
20 A But then it's only a probability.
21 **Q Right. So my question is what**
22 **is the method by which a trader determines the**
23 **probability that any particular multi-legged options**
24 **spread will result in profits?**

<p style="text-align: right;">Page 61</p> <p>1 A Usually it's risk versus reward.</p> <p>2 Q What does that mean?</p> <p>3 A How much capital do you deploy to how</p> <p>4 much capital you can make.</p> <p>5 Q How do you determine how much capital</p> <p>6 you can make on a particular multi-legged options</p> <p>7 trade?</p> <p>8 A It's limited to the spread that is</p> <p>9 deployed.</p> <p>10 Q And then is it just an arithmetical</p> <p>11 subtract the maximum gain from the maximum loss?</p> <p>12 I don't understand.</p> <p>13 A So if you put on a spread and</p> <p>14 you're limiting your risk because you have</p> <p>15 a spread on but then you have the potential to</p> <p>16 make X, then you would say I can make X but I'm</p> <p>17 only risking Y.</p> <p>18 Q Are you aware of any software</p> <p>19 applications that could assist a trader in</p> <p>20 determining the probability that a trade would</p> <p>21 be profitable?</p> <p>22 A Well, they tried to build a model</p> <p>23 to establish that capability. The problem with</p> <p>24 that, it comes in the fact that there are so many</p>	<p style="text-align: right;">Page 63</p> <p>1 to achieve net profitability at the time the trade</p> <p>2 is placed?</p> <p>3 A I guess I just do it because --</p> <p>4 I've never run a spread trade in an analyzer to</p> <p>5 see the probability of outcome because you know the</p> <p>6 probability on the delta going in and that's what --</p> <p>7 that's what's happening.</p> <p>8 Q What does it mean -- you used the term</p> <p>9 probability on the delta and that's what you focus</p> <p>10 on when you're analyzing whether or not a trade is</p> <p>11 a good bet. What do you mean by probability on</p> <p>12 delta?</p> <p>13 A Yeah, it could be the delta or</p> <p>14 it could also be -- there's several different</p> <p>15 factors in pricing options and different Greeks</p> <p>16 that go along with deltas. And that's like a delta,</p> <p>17 a gamma, a theta, a vega, a rho. All these things</p> <p>18 go into the pricing models of options, and based</p> <p>19 upon what your position is going in or whether you</p> <p>20 want to establish a position would be the variance</p> <p>21 from what you're trying to accomplish on your</p> <p>22 spread.</p> <p>23 Q So let me try and summarize your</p> <p>24 testimony because there's a lot of things going</p>
<p style="text-align: right;">Page 62</p> <p>1 other variables out there. Like I mentioned to</p> <p>2 you earlier, time, and that that is -- as much as</p> <p>3 I would like to say that it's an absolute, there's</p> <p>4 no way that any trading system can give me an</p> <p>5 absolute outcome.</p> <p>6 Q You've placed spread trades before, right?</p> <p>7 A Every day.</p> <p>8 Q Your goal when you place spread trades,</p> <p>9 is it to make money or lose money?</p> <p>10 A To make money.</p> <p>11 Q How do you determine before you place</p> <p>12 a spread trade whether or not it's likely to make</p> <p>13 money?</p> <p>14 A There's so many variables in</p> <p>15 that situation, but I might be -- I might be</p> <p>16 repositioning a hedge. I might be -- if it's an</p> <p>17 opening position, I might be just speculating and</p> <p>18 protecting a downside event. If it's a spread in a</p> <p>19 time lateral situation, it might be that I'm trying</p> <p>20 to reduce risk going out in time. There's just so</p> <p>21 many variables to that question that it depends on</p> <p>22 the situation that we're referring to.</p> <p>23 Q Have you ever run an analysis that</p> <p>24 tells you whether or not a spread trade is likely</p>	<p style="text-align: right;">Page 64</p> <p>1 on here. It sounds to me like before you put</p> <p>2 on a trade, an options spread trade, you look</p> <p>3 at a bunch of variables, including the Greeks,</p> <p>4 the max loss of the trade, the max gain of the</p> <p>5 trade and you analyze those in your brain and</p> <p>6 you determine whether or not that's a good trade,</p> <p>7 is that right?</p> <p>8 A That's correct.</p> <p>9 Q And you do not use any automated</p> <p>10 analysis to determine whether or not any particular</p> <p>11 spread trade is likely to achieve net profitability,</p> <p>12 is that also correct?</p> <p>13 A That is correct.</p> <p>14 Q But you're aware that such tools exist,</p> <p>15 right?</p> <p>16 A I don't rely on them because there</p> <p>17 are more factors out there that they don't -- that</p> <p>18 they're not aware of.</p> <p>19 Q Do automated tools exist that</p> <p>20 professional traders use to analyze the likelihood</p> <p>21 that any particular multi-legged options trading</p> <p>22 strategy will achieve net profitability?</p> <p>23 A I'm sure there are.</p> <p>24 Q What are they? The Monte Carlo simulation,</p>

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1 is that one of them?

2 A No. Monte Carlo -- because you have

3 too many variables in an options trade, especially

4 a multi-legged trade and a spread trade, there's so

5 many variables that can occur that there's no one

6 set. And that's why you look at just the generic

7 trade itself and look at your risk/reward.

8 Q That's what you do, right? That's your

9 testimony, that that's how you analyze trades?

10 A That's the way that I was -- I've always

11 traded.

12 Q Right, yeah. I'm only asking you is that

13 what you do, yes?

14 A That's what I do because nobody can

15 forecast the future 100 percent.

16 Q I agree with that also. But you do

17 not attempt to employ any automated analysis that

18 will tell you a probability that a trade is likely

19 to make money, right?

20 A No.

21 Q So earlier when I asked you

22 about common reasons that traders trade options,

23 I think you mentioned hedging, you know, placing

24 a directional bet -- that's not the term you used,

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1 but I think that is what you meant -- and also

2 to put on sort of a limited risk income-generating

3 strategy. Those were sort of the three buckets.

4 Do you remember that?

5 A I agree.

6 Q I want to focus on the third bucket,

7 which is the multi-legged strategy of limited risk

8 and defined profit potential.

9 A Let's go for it.

10 Q Actually, before we go there,

11 earlier today you said that you were a market

12 maker in options. That's another sort of kind

13 of market participant. Does market maker fall into

14 any of those three buckets that we discussed?

15 A As a market maker I was a market maker,

16 not a market taker.

17 Q Yeah.

18 A Which means that I was always on

19 the other side. I did not know what other people

20 would bring to my environment. I just had to make

21 a market to try to fill that client's needs.

22 Q The market maker's job is to provide

23 liquidity, you know, buying and selling on both

24 sides. It's not necessarily hedging directional

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1 bets or placing sophisticated trades, is that fair?

2 A That's correct.

3 Q Like it's totally its own bucket, right?

4 A That's right. Yeah, you're there to

5 provide a service for the public.

6 Q In terms of your professional career

7 as a financial services -- as an options trader,

8 how much of your experience has been as a market

9 maker on the one hand or as a nonmarket maker on

10 the other?

11 A So I started trading stock options

12 in 1986. I would say I probably stopped that

13 somewhere around 2011-ish when I was with G-Bar.

14 And then I started with the Saliba situation in

15 whatever it was, '12 I'm going to say, 2012, 2013,

16 worked there, and then since then I've been working

17 at Freeboard Capital. So let's say it's been nine

18 years of -- nine years of doing it for other people.

19 And except for like between 1991 and '93 when

20 I moved back to Indianapolis to help my mom, I've

21 been trading as a market maker from '86 to '91 and

22 then '93 to 2011. So maybe 23 years as a market

23 maker and maybe 10 years, 9 years as a professional.

24 Q Okay. And then so in those eight

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1 or nine years as a professional, if I heard that

2 right, nonmarket making options trading, how much of

3 your trading activity fell into the hedging bucket?

4 A Most of it.

5 Q It sounds like all of it.

6 A Yeah, I would say 90 -- I mean, I would

7 say 90 percent or more.

8 Q Would you say 99 percent?

9 A Sure, I'll even go that high. Sure,

10 99 percent.

11 Q 100 percent?

12 A Probably not 100. There might have

13 been a couple speculative trades, but you get the

14 idea.

15 Q Okay. Got it, got it. That's

16 helpful.

17 MR. PLATT: Okay. Let's take a break

18 because we're sort of at a natural stopping

19 point. Do you guys want to take ten --

20 THE WITNESS: Sure.

21 MR. PLATT: -- and then we'll look at

22 your report?

23 THE WITNESS: Wonderful.

24 MR. PLATT: Let's go off the record.

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1 **THE WITNESS:** Okay.
2 (Whereupon a recess was taken from
3 10:25 a.m., to 10:33 a.m., after
4 which the following proceedings were
5 had:)
6 **MR. PLATT:** Let's go back on the record,
7 please, at 10:33.
8 **Q** So, Mr. Burnside, before the break we
9 were discussing the way you analyze a spread trade
10 before you put it on. And I think your answer was,
11 and I'm summarizing, you know, you look at the
12 Greeks, you look at the volatilities, you look at
13 factors such as max loss and max gain or potential
14 max loss and potential max gain, and you sort of
15 reach an analysis as to whether or not it's an
16 advisable trade. Is that generally accurate?
17 A That is.
18 **Q** And do I have it right that it's
19 like a holistic analysis that you conduct based
20 on what the variables mean to you?
21 A The variables are what they are.
22 **Q** And your analysis of the variables,
23 is it a holistic analysis where you are looking
24 at the variables and you make an independent

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1 determination in your head whether or not
2 it's a good trade?
3 A Yes.
4 **Q** Do you ever attempt to calculate
5 any probabilities that a trade will be profitable,
6 a spread trade will be profitable before you put
7 a spread trade on?
8 A When you have a spread trade, you have
9 limited profit and loss to begin with. Therefore,
10 you already know your outer bounds. So is this the
11 proper place to do it is what I look at.
12 **Q** So what I'm asking -- just to clarify,
13 what I'm asking is options trades can have a variety
14 of outcomes, right, positive or negative?
15 A Agreed.
16 **Q** And you've identified that you look
17 at sort of an outer bound on both sides when you're
18 putting on a spread trade, right?
19 A Correct.
20 **Q** Do you ever attempt to calculate the
21 likelihood that a spread trade will have a positive
22 outcome?
23 A It's a probability outcome to begin with.
24 That's what a spread is. It's a probability outcome

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1 to begin with, so the probability's already built
2 into the trade.
3 **Q** So I think I'm asking a slightly
4 different question. I'm asking do you ever attempt
5 to calculate the likelihood that a spread trade will
6 achieve net profitability?
7 A Again, the probability is in the
8 spread. It's already built in the spread. It's
9 an inherent part of the spread. It's there. It is
10 what it is. You know how much you paid for a spread
11 or how much you sold the spread for. So, therefore,
12 you know what your risk is. That's the definition
13 of a spread, is that you have outer bounds on
14 either side.
15 **Q** Okay, that's helpful. And, again,
16 I'm not asking about the outer bounds or whether
17 or not the downside is defined. Do you know what
18 the term likelihood means in statistics?
19 A It's called probability outcome.
20 **Q** Right. And options trades can either
21 be profitable or not profitable, right?
22 A That is true.
23 **Q** Do you ever attempt to calculate
24 the probability that an options spread trade

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1 will be profitable?
2 A When you make the trade, the probability
3 is already set there.
4 **Q** Explain to me the method by which
5 you calculate the probability that a spread trade
6 will be profitable.
7 A Sure. Let's say that I sell a vertical --
8 a call vertical. I buy one call. I sell another
9 call. It's \$10 strike differential. The maximum
10 it can go to is \$10, agreed? I buy that spread
11 for \$7. The maximum I can make on that trade is
12 \$3, agreed? That's the probability outcome that
13 I'm -- that I look at on a daily basis, on an
14 every-minute basis. I might do something else
15 against it, but I'm using it in the purest of
16 terms in a vertical trade. Maybe I think that
17 the stock could go higher. Maybe I paid a dollar
18 for that \$10. I risked a dollar to make nine.
19 Now, the probability is lower for me to make the
20 nine because I only paid a dollar for it, but then
21 again, things do change.
22 **Q** So it still sounds to me like you're not
23 conducting an analysis to determine the likelihood
24 that that trade will be profitable at the end.

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1 It sounds like you're describing the maximum
2 you could gain and the maximum you could lose
3 and then sort of comparing the magnitude of those
4 two outcomes, right?
5 A Correct. You could look at it that
6 way, but the probability is I buy one option,
7 I sell another option. What's the probability
8 of the one that I purchased being in the money and
9 what's the probability of the one that I sold being
10 out of the money or in the money or however you want
11 to look at it. That is -- that's your delta of that
12 spread and that's your probability outcome of that
13 spread being in the money. A minus B equals your
14 net.
15 Q So it's just a simple arithmetic?
16 A Yes.
17 Q Do you take into account the likelihood
18 that one or the other outcomes will occur in this
19 arithmetic?
20 A Always.
21 Q How do you do that?
22 A And I look at that and I evaluate that,
23 if I want to pay \$1 or \$7.
24 Q Other than the process you've

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1 just described, which is you analyze each leg
2 independently and then you sort of make a gut
3 decision whether or not the trade is good or bad,
4 do you conduct any other analysis to determine
5 whether or not a trade is likely to make money
6 or not?
7 A So the answer to your question
8 directly is that there's a probability of that
9 spread being in the money. Nothing more, nothing
10 less, whether it is \$3 in the money, \$10 in the
11 money, whatever, \$30 in the money. And so that's
12 what I look at.
13 Q It doesn't sound to me like you're
14 actually looking at the probability that the
15 trade will be in the money, but we'll move on.
16 THE WITNESS: All right. Hold on
17 one second. The door opened while we were
18 talking. Hold on one sec.
19 (Discussion off the record.)
20 THE WITNESS: Sorry about that.
21 BY MR. PLATT:
22 Q I'm going to put Exhibit 507 back up on
23 the screen, which is your --
24 A Okay.

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1 Q -- August 9, 2020 report.
2 A Yep.
3 Q Let me know when you can see it.
4 A I can see it.
5 Q And this is a two-page PDF with one,
6 two, three, four, five --
7 A Yep, I get it.
8 Q And under the Project heading
9 on page 1 you write that the project is to
10 review options trades that were suggested trades
11 by James A. Donelson and Long Leaf Trading Group.
12 "My job is not to validate the trades, but more
13 so to prove that the trades are viable options
14 strategies." What time period --
15 A Yep.
16 Q -- does this analysis pertain to?
17 A Well, I looked at some of the '17,
18 but predominantly after Jim had purchased or
19 taken over the company from December of -- I think
20 it was December of '17 until '19 or so.
21 Q And is that your understanding,
22 that that's the time period that Donelson owned
23 the firm?
24 A It is.

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1 Q Is it your understanding that Long
2 Leaf's trading recommendations were materially
3 the same during the entire time period Donelson
4 was the principal of Long Leaf Trading?
5 A They were -- they kind of fell in different
6 buckets but, yes, predominantly.
7 Q What are the different buckets of
8 trades that Long Leaf's trading recommendations
9 fell into?
10 A So they would be verticals that
11 could be turned into butterflies or butterflies
12 themselves or broken butterflies, or there might
13 be selling of straddles with some protection on
14 either side of less -- of lower volatility options.
15 And then, finally, there would be just time spreads
16 that they could be doing. Some people refer to them
17 as calendars. That was predominantly where they
18 would be -- the buckets fell into.
19 Q And you go on to state in the second
20 sentence of the Project heading, "My job is not
21 to validate the trades, but more so to prove that
22 the trades are viable options strategies." What
23 does it mean --
24 A I never saw any statements is what I was

<p style="text-align: right;">Page 77</p> <p>1 trying to say there.</p> <p>2 Q What's that?</p> <p>3 A I never saw any statements of clients</p> <p>4 or people that traded it.</p> <p>5 Q What does it mean that you didn't --</p> <p>6 that your job was not to validate the trades?</p> <p>7 A Because I never -- again, I never saw</p> <p>8 the actual statements of any one person's account.</p> <p>9 I never saw a trade. I saw his recommendations, and</p> <p>10 that's what I went off of.</p> <p>11 Q Why would you need to see client statements</p> <p>12 to be able to validate a trade?</p> <p>13 A To see that they got executed.</p> <p>14 Q Why was that valuable to your</p> <p>15 analysis as to whether or not you could validate</p> <p>16 a trade?</p> <p>17 A Because if they didn't -- if they</p> <p>18 never made the trade, you wouldn't be here I'm</p> <p>19 guessing. Somebody made a trade somewhere, but</p> <p>20 I never saw any trades.</p> <p>21 Q But you saw the designs of the trades,</p> <p>22 right, and the structure --</p> <p>23 A Not -- not --</p> <p>24 Q -- of the trades, right?</p>	<p style="text-align: right;">Page 79</p> <p>1 or bad strategies or likely to make money or not</p> <p>2 likely to make money? Like what is it that you</p> <p>3 couldn't do because you didn't know that they were</p> <p>4 actually executed?</p> <p>5 A If I had a trading statement that</p> <p>6 gave me the confirms, then I could actually see</p> <p>7 what people were filled at and what was going on.</p> <p>8 I never received anything in that regard. All I</p> <p>9 received was the recommendations of the options</p> <p>10 strategy. And, therefore, I was there to prove</p> <p>11 that these strategies were viable. That's pretty</p> <p>12 clear.</p> <p>13 Q Maybe a little less clear than you</p> <p>14 think, so let's move on to that second clause.</p> <p>15 You write that your project was to prove that the</p> <p>16 trades are viable options strategies. What does it</p> <p>17 mean to prove that the trades are viable options</p> <p>18 strategies?</p> <p>19 A So that they are regularly used in common</p> <p>20 trading environments.</p> <p>21 Q So scrolling down to the Analysis --</p> <p>22 A Yes, sir.</p> <p>23 Q -- section. I don't know if you can see</p> <p>24 this.</p>
<p style="text-align: right;">Page 78</p> <p>1 A That's why I said I wanted to prove</p> <p>2 that the trades were viable options strategies.</p> <p>3 THE REPORTER: Mr. Burnside, I just want</p> <p>4 to remind you --</p> <p>5 A (Inaudible).</p> <p>6 THE REPORTER: Mr. Burnside, can you</p> <p>7 please not interrupt the questions? Just</p> <p>8 wait until he finishes the questions before</p> <p>9 you answer because you get like all garbled</p> <p>10 and I can't pick it up.</p> <p>11 THE WITNESS: Sorry.</p> <p>12 THE REPORTER: Thank you.</p> <p>13 BY MR. PLATT:</p> <p>14 Q So your testimony, Mr. Burnside,</p> <p>15 is that when you write that your job was not</p> <p>16 to validate the trades, you mean I couldn't analyze</p> <p>17 the trades because I didn't know that they were</p> <p>18 actually executed? Is that your testimony?</p> <p>19 A My testimony is that I never saw the</p> <p>20 executed trades. All I did was get information</p> <p>21 on what was recommended.</p> <p>22 Q So I'm still trying to understand the</p> <p>23 concept of what you mean by validate. Is it like</p> <p>24 you couldn't opine that they were good strategies</p>	<p style="text-align: right;">Page 80</p> <p>1 A I can.</p> <p>2 Q You describe the 2017 strategy</p> <p>3 of selling condors and then you go on to list</p> <p>4 three paragraphs, broken butterfly, calendar or</p> <p>5 time spread and gut vertical. Do you see those?</p> <p>6 A I do.</p> <p>7 Q Back up to the second sentence under</p> <p>8 the Project heading. When you say that your job</p> <p>9 was to prove that the trades are viable options</p> <p>10 strategies, can we interpret that to mean broken</p> <p>11 butterflies, calendar spreads and gut verticals</p> <p>12 are regularly used in common trading environments,</p> <p>13 to use your words?</p> <p>14 A They're derivatives of basic options</p> <p>15 strategies.</p> <p>16 Q In your August 9, 2021 report</p> <p>17 are you making any statements or offering</p> <p>18 any opinions about whether or not the trading</p> <p>19 strategies were likely to make money or lose money?</p> <p>20 A I am not.</p> <p>21 Q Back up in the Analysis section,</p> <p>22 this first paragraph here says that, "Options</p> <p>23 trading strategies may vary and carry different</p> <p>24 risks based upon the goals." Do you see that?</p>

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1 A I do.

2 **Q What are the goals that you're referring**

3 **to here?**

4 A Goals of the -- of whomever's recommending

5 or whoever the client might be.

6 **Q What were the goals of Long Leaf Trading's**

7 **trades, as you understand them?**

8 A As I understand them, was to limit risk

9 and to make money for their client -- for their

10 client base.

11 **Q So as I understand your previous**

12 **testimony, when you say that your job is to**

13 **prove that the trades are viable, you are not**

14 **offering an opinion on whether or not Long Leaf's**

15 **trades were likely to generate income for its client**

16 **base, right?**

17 A Again, I never saw the confirms,

18 so I would not know what prices these actually

19 traded.

20 **Q That's not answering the question,**

21 **Mr. Burnside. Setting aside whether or not you saw**

22 **the confirms -- because that goes to your validation**

23 **concept, right -- I'm asking about the viability**

24 **concept. You said your job is to prove that Long**

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1 Leaf's trades are viable options strategies,

2 and then you testified that you understood Long

3 Leaf's goals were to generate income for its

4 customers, right?

5 A With limited risk.

6 **Q So my question is does your report**

7 **attempt to offer an opinion or a statement as to**

8 **whether or not Long Leaf's trades were designed to**

9 **meet Long Leaf's customers' goals?**

10 A I believe so.

11 **Q Where is that statement here?**

12 A So when you have a butterfly, as

13 in subsection A there, when you have a butterfly,

14 you have limited risk but have profit potential.

15 In the case of the broken butterfly, it skewed

16 a little bit off center whether it's a put or a

17 call and, therefore, there still is the premise

18 of the butterfly strategy so that you have limited

19 risk but at the same time you have profit potential.

20 Going to Number B, to answer your question -- can

21 you scroll down just real quickly just so I don't

22 get them backwards?

23 **Q (Scrolling).**

24 A The calendar spread, the time spread

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1 is based upon there might be an event that

2 allows the -- either their near-term options

3 to become elevated in implied volatility, as you

4 discussed earlier that Long Leaf was trying to take

5 advantage of, but he did not want to just be short

6 options against that strategy. So, therefore, he

7 would buy other options against it, longer-dated

8 options, which may have a lower implied volatility

9 so, therefore, mitigating risk for the clients with

10 the potential of profit for the client. And,

11 finally, the gut trade -- and, finally, the gut

12 trade is selling the straddle in the midst of

13 a higher volatility and buying the wings so that

14 he doesn't -- the client doesn't have complete

15 exposure being short that straddle.

16 **Q So let's go back to this concept --**

17 A So what he's trying to accomplish --

18 go ahead.

19 **Q Let's go back up to this concept**

20 **of viability. You said that your project was to**

21 **prove that Long Leaf's trades are viable options**

22 **strategies. You testified that that meant that your**

23 **project was to prove that the trades were those that**

24 **were regularly used in common trading environments.**

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1 **Do you remember that testimony?**

2 A I do.

3 **Q Are you offering an opinion in this**

4 **report that Long Leaf's trading recommendations**

5 **offered to its customers could be profitable?**

6 A They very well could be.

7 **Q Is that your opinion?**

8 A But at the same time, again, I never

9 saw the confirms so I don't know the pricing

10 of what things went down. So it's not my -- it's

11 not my position to tell you whether they are or are

12 not profitable.

13 **Q Mr. Burnside, that's exactly your**

14 **position because you've been engaged as an expert**

15 **witness to opine on these trades. So let's go back**

16 **to this concept of viability. When you say that**

17 **your project was to prove that Long Leaf's trades**

18 **are viable options strategies, is it your expert**

19 **opinion that Long Leaf's specific trading**

20 **recommendations offered to its customers were**

21 **likely to result in profits?**

22 A I believe so, yes.

23 **Q Which of Long Leaf's trading**

24 **recommendations were designed to be more likely**

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1 **than not to result in net profits?**
2 A I don't believe he had any one that was
3 more favorable than others.
4 **Q Can you provide an example of one**
5 **of Long Leaf's trading recommendations that was**
6 **designed to result in net profits?**
7 A Well, I mean, I'm sure you're going
8 to go through some trades and we can go through
9 a couple trades if you want.
10 **Q I'm asking you sitting here today,**
11 **do you remember any?**
12 A I recall that he was buying --
13 I don't remember the exact strike, but I'm going
14 to say it was the 360 -- 365, 380, 390 butterfly in
15 corn -- broken butterfly in corn, but I could be
16 wrong. I mean, I'm not sitting here telling you
17 I have them memorized.
18 **Q So earlier you testified that your**
19 **job was not to validate the trades, which meant**
20 **that you couldn't offer an opinion on whether or**
21 **not any of the trades were likely to make money.**
22 **And now do I understand your testimony to be that**
23 **your opinion is that Long Leaf's trades were**
24 **designed to make money?**

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1 A Anytime you put on a butterfly
2 or things along these commonly known options
3 strategies, they're designed to make money with
4 limited risk.
5 **Q That's not true, right? Is it**
6 **your testimony, Mr. Burnside, that any butterfly**
7 **is designed to be -- more likely than not to be**
8 **profitable? Is that what your testimony is?**
9 A My testimony is that a butterfly has
10 limited risk with profit potential.
11 **Q And you can make a determination based**
12 **only on the fact that a trade is a butterfly and not**
13 **looking at the strikes, the volatility, the Greeks,**
14 **all the other variables you talked about earlier,**
15 **that it's more likely than not to make money just**
16 **by the fact that it falls in the category of being**
17 **a butterfly? Is that your testimony?**
18 A It is.
19 **Q Did you account for commissions in your**
20 **analysis of Long Leaf's trades?**
21 A I never saw a confirm. I'm only
22 here to validate the viability of the options
23 strategies.
24 **Q So did you take into account commissions**

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1 **into your analysis?**
2 A No.
3 **MR. PLATT:** Let's take a five-minute
4 break.
5 (Whereupon a recess was taken from
6 11:02 a.m., to 11:09 a.m., after
7 which the following proceedings
8 were had:)
9 **MR. PLATT:** It's 11:09 a.m. Central,
10 continued deposition of John Burnside.
11 **Q And, Mr. Burnside, before that brief**
12 **break, you stated that you didn't take commissions**
13 **into account in your analysis of Long Leaf's trading**
14 **recommendations. Do you remember that testimony?**
15 A I do.
16 **Q Do you agree that commissions can impact**
17 **whether or not any particular options spread trade**
18 **is profitable?**
19 A That's not my forte. My forte was to
20 talk about options trading. So sorry. I mean,
21 I'm sure there could be commissions or there could
22 not be commissions. I don't know.
23 **Q You don't know whether or not Long Leaf**
24 **charged its clients commissions?**

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1 A That's -- that wasn't -- that wasn't
2 part of my analysis. My analysis was to look at
3 the options, just the pure trades.
4 **Q So setting aside whether or not**
5 **you know that Long Leaf charged its customers**
6 **commissions, do you agree that commissions are an**
7 **important factor to consider when assessing the**
8 **profitability of a trade?**
9 A When I design trades, I do not implement
10 commissions on a regular basis because things have
11 gotten down to the nitty-gritty on commissions.
12 So I don't know -- and I most certainly don't know
13 about the world of commodity commissions. So I
14 would be -- it would be wrong for me to comment
15 one way or the other on that.
16 **Q Earlier you testified that your**
17 **commissions were commonly zero, right, or 40¢ per**
18 **option?**
19 A Yeah, correct.
20 **Q If Long Leaf charged its clients \$10 per**
21 **option, would that impact your analysis of whether**
22 **or not its trades were profitable?**
23 A I honestly don't know. I don't know
24 the pricing of what occurred. So, again, I think

<p style="text-align: right;">Page 89</p> <p>1 the commission thing I just don't know about. 2 I'm sorry. 3 Q Okay. I'm not asking you whether 4 or not you know. I'm asking you a hypothetical. 5 If Long Leaf charged its customers \$10 per option 6 on a four-legged options trade, would that impact 7 your analysis of whether or not the trades were 8 designed to achieve net profits? 9 A Again, is that \$10 for the whole 10 trade? Is it \$10 per option? Is it -- I mean, 11 there's so many variables that keep popping up 12 here. I don't know -- and I'm not trying to evade 13 the question. I mean, sure. I mean, commissions 14 could be a big part of it, but at the same time 15 that wasn't my responsibility to evaluate. 16 I'm sorry. 17 Q So it sounds like we have some 18 confusion about the assumptions. So let's 19 agree that for purposes of this hypothetical 20 one commission means \$10 per option, okay? So 21 on a four-legged options trade, \$40 in, \$40 out, 22 okay? 23 A Okay. 24 Q Under that scenario would commissions</p>	<p style="text-align: right;">Page 91</p> <p>1 impact on the profitability of the client's options 2 trades? 3 A Obviously it would be more than 4 the previous number mentioned, so yes. But, 5 again, I don't know -- I never got the confirms, 6 so I don't know what was going on behind the scenes. 7 MR. PLATT: Mr. Falvey, you know, 8 I don't think there's anything untoward going 9 on. But if we could decrease the discussion 10 between you and Mr. Burnside, I think that 11 would be -- 12 MR. FALVEY: There is no -- and to 13 be clear, that was the first time I think 14 I've actually done it, but I will tell you 15 what I told him. I said just answer the 16 question. 17 BY MR. PLATT: 18 Q I'm going to put Exhibit 507 back up, 19 Mr. Burnside -- 20 A Okay. 21 Q -- which is your August 20, 2021 report -- 22 A Yep, yep. 23 Q -- where you opine that your job is 24 not to validate the trades but more so to prove</p>
<p style="text-align: right;">Page 90</p> <p>1 impact your analysis of whether or not Long Leaf's 2 trading recommendations were designed to achieve 3 net profits? 4 A I'm sure at \$40 that would have some 5 impact but, again, I'm only looking at the actual 6 trades. I'm going to defer to you guys to see if 7 that's egregious or whatever. I'm not -- 8 MR. PLATT: Mr. Burden, can you please 9 mute your line. 10 Q So you say that commissions could have 11 some impact. Do you agree that the impact that 12 commissions have on an option trade's profitability 13 is that every dollar paid towards commission comes 14 out of the client's pocket and reduces the 15 profitability of the trade? Do you agree with 16 that? 17 A I would. 18 Q So it has a negative impact on 19 profitability, correct? 20 A Correct. 21 Q Let's take the hypothetical one 22 step further and assume that Long Leaf charged 23 its clients \$20 per option in commission. Do you 24 agree that that would be an even larger negative</p>	<p style="text-align: right;">Page 92</p> <p>1 that the trades are viable options strategies. 2 So the record is clear, can you just explain one 3 more time what you mean when you say that your job 4 is to prove that the trades are viable options 5 strategies? 6 A Again, we've talked about a butterfly. 7 We've talked about a time spread. We've talked 8 about selling the guts and buying the wings. This 9 is -- this -- these are viable options strategies 10 and they have limited risk for the client while 11 at the same time profitable outcomes that -- in 12 situations that should make -- not necessarily 13 make money but limit risk, limit risk and give 14 the client potential upside. 15 Q And your testimony was that you did 16 not account for commissions into the extent to 17 which any particular trade could achieve any upside, 18 right? 19 A I am not a commission specialist. I trade 20 options. 21 Q The answer's no? 22 A No. 23 Q When you say viable options strategies, 24 do you mean that the specific trades were likely</p>

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1 to make money or could have made money? Because
2 it's a big difference.
3 A Could have made money while having limited
4 exposure for the client.
5 Q Did you look at any of the options
6 trade recommendations to determine if they were
7 likely to make money?
8 A I just looked at the -- what was being
9 traded in the case of a broken butterfly or a time
10 spread or vertical or a, you know, time gut trade.
11 Q Did you conduct any analysis
12 to determine whether or not Long Leaf's trading
13 recommendations were likely to make money or did
14 you only look to see whether they could make money?
15 A I looked at if they could make money
16 because, as with all options trades, anything can
17 happen.
18 Q You did not conduct an analysis
19 of whether or not Long Leaf's trades were likely
20 to make money, correct?
21 A They had limited risk. So, therefore,
22 whether they could make money, they weren't going to
23 get -- the client had limited risk. So, therefore,
24 there was limited exposure so I -- there was --

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1 it was a proper options strategy. So I did not --
2 so I did not go through the entire trade to see if
3 they could lose money. There are risks in options.
4 Q Right. So you didn't answer the
5 question, Mr. Burnside. I'm going to ask it again.
6 Did you conduct any analysis to determine whether
7 or not Long Leaf's trading recommendations were
8 likely to make money?
9 A I think that's a -- the answer is no.
10 But that's kind of a misleading question from the
11 standpoint of when you have limited risk, you know
12 what your risk is going in. So, therefore, you know
13 that that's your -- you have, in essence, a stop
14 loss.
15 Q So the answer is no, you did not
16 conduct an analysis as to whether or not Long
17 Leaf's trade recommendations were likely to make
18 money, is that correct?
19 A That's correct.
20 Q And you described how you looked
21 at the limited downside and the limited upside,
22 right?
23 A Correct.
24 Q But in looking at the limited downside

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1 and the limited upside, you didn't account for the
2 impact of commissions on the upside, right?
3 A My job, again, was to just see about the
4 options viability strategy.
5 Q So you didn't answer the question.
6 You did not analyze the impact of commissions on
7 what was already --
8 A I did not.
9 Q -- limited upside, right?
10 A I did not.
11 Q So I think we were talking over
12 each other there a little bit. I just want the
13 record to be clear. When you analyzed Long Leaf's
14 trading recommendations to determine whether or not
15 they could possibly make money, you looked at the
16 limited downside and the limited upside, right?
17 A Correct.
18 Q And when you looked at the already
19 limited upside on Long Leaf's trading strategies,
20 you did not account for the impact of commissions
21 impacting the limited upside, right?
22 A Correct.
23 Q That's true for all the buckets
24 of the trades that you identified earlier, right?

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1 A Correct.
2 Q I'm going to put your August 9, 2021
3 report back up on the screen, Mr. Burnside --
4 A Okay.
5 Q -- Exhibit 507, and I'm going to scroll
6 down to the Disclaimers section.
7 A Okay.
8 Q Why did you include a disclaimer in your
9 expert opinion?
10 A Honestly? I went on the internet
11 and said, well, what are the other ones doing
12 and ...
13 Q The first sentence of your disclaimer
14 says, "I did not trade in these markets during the
15 said time of complaint." What do you mean by "these
16 markets"?
17 A The markets that the recommendations
18 were made.
19 Q Futures options, right?
20 A Yeah.
21 Q And, in fact, you've never traded
22 futures options, at least not since the '80s,
23 right?
24 A That's right.

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1 Q And at the time you traded futures
2 options they didn't trade on screens. They traded
3 in pits, right?
4 A Correct.
5 Q And pit trading, I think you'll agree,
6 is completely different than screen trading, right?
7 A Sure, I'll agree that it's different.
8 It still has the same premise, though.
9 Q Yeah, people still buy and sell options.
10 That's about the extent of the similarities?
11 A Actually, what's nice about the
12 screen is that the -- is that you can create
13 your own different strategies or what have you,
14 so yeah. I mean, I don't know what, you know, what
15 goes on in the CFTC world because I haven't traded
16 in it -- in that since then so -- but, yes, I did
17 not trade on the screen for the futures options.
18 Q Screen trading's faster than pit trading,
19 right?
20 A I'm sorry?
21 Q Screen trading is faster than pit trading,
22 right?
23 A I honestly don't know.
24 Q In your expert options trading opinion,

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1 you don't know if screen trading is faster than pit
2 trading? Is that your testimony?
3 A Oh, I thought you said has stopped
4 the pit trading. Is faster, is that what you said?
5 Q Faster, yes.
6 A Yes, screen trading is faster than
7 the pit trading. We already talked about that.
8 Q Right. And I'm going to go back
9 to Exhibit 508, which is your January 22, 2020
10 declaration. Do you see that?
11 A I do.
12 Q Do you recall this document?
13 A Vaguely.
14 Q You testified that you didn't write it,
15 right?
16 A Correct.
17 Q I'm just going to scroll through.
18 There's a Scope of Engagement section, a Material
19 Reviewed section, an Affiant's Opinion section and
20 a Conclusion section. Do you see those?
21 A Yeah.
22 Q In the Scope of Engagement section --
23 A Yep.
24 Q -- it says that, "Affiant," that's you,

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1 "has been engaged by counsel for James Donelson
2 to review the trading option trading strategy
3 for those trades recommended by Long Leaf Trading
4 Group, LLC, to its customers during the period of
5 December 1, 2017 to present." Did I read that
6 correctly?
7 A You did.
8 Q So the scope of your engagement
9 for your declaration is different than the scope
10 of engagement for your report, right?
11 A It was because it was, you know,
12 a long time prior to being reconvened into this
13 process.
14 Q So why did you add this limiting
15 language to your report -- and I'll toggle back to
16 Exhibit 507 -- the purpose and the limiting language
17 is, "My job is not to validate the trades"? Why did
18 you add that in there?
19 A Because it wasn't to validate the
20 trades. It was to prove that the options trades
21 were viable.
22 Q But back in January of 2020 why didn't
23 you include that limiting language?
24 A Maybe I've just gotten a little

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1 bit smarter on what to put in. I don't recall.
2 Q You haven't seen any trading statements
3 in connection with the January 2020 report, right?
4 A If I did, I don't recall them.
5 Q So let me -- the Affiant's Opinion, do you
6 see that under paragraph 5?
7 A I see paragraph 5. Where are you referring
8 to?
9 Q It's titled Affiant's Opinion.
10 A Oh, yeah. I'm sorry. Hello, right at
11 the very top.
12 Q Please review Item A --
13 A I'm not familiar with some of these fancy
14 word choices, right?
15 Q Yeah, yeah, sorry. Please review
16 subparagraph A and let me know after you've had
17 a chance to review that.
18 A Yeah, I've -- okay.
19 Q I'm now going to toggle back to your
20 August 2021 report.
21 A Okay. We've seen that one.
22 Q Under Analysis, that first paragraph, does
23 that language look similar to you?
24 A I would say, yeah, pretty close.

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1 **Q Those are the exact same words, right?**
2 **It's not close. It's the same.**
3 A I'm going to tell you that you could
4 say that, but this thing was written, you know,
5 and I said it. I'm -- this one is 100 percent me
6 writing it.
7 **Q So the record's clear, by "this one"**
8 **you're referring to Exhibit 507, your August 2021**
9 **report. And your testimony is the second sentence**
10 **of this first paragraph under Analysis -- I'm going**
11 **to read it -- "At the root of all options strategies**
12 **are some very basic strategies that when tweaked,**
13 **can change the appearance, but they are all built**
14 **off these basic strategies." And now I'm going to**
15 **flip to Exhibit 508, which is your declaration from**
16 **January 2020, which you testified --**
17 A Okay.
18 **Q -- was written by someone else.**
19 A They helped me. I mean, I was there.
20 I wasn't -- I mean, and it does say exactly the
21 same thing. I think that's weird. Maybe it was
22 a recollection. I don't know. But I'm telling you
23 that the other one, the previous one, was written
24 by me. And you can even see the word choices are

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1 different in the whole -- except for maybe that
2 one line -- everything is from a trader standpoint,
3 and I grant you that that is strange. I'm not going
4 to sit there and say that, but I'm responsible for
5 both of these documents. I signed them.
6 **Q Just to be clear, because I'd like to**
7 **understand who wrote the document, your testimony**
8 **I believe is 508, which is your January 2020 report,**
9 **was drafted by someone else and you executed it.**
10 **Do you remember that?**
11 A Vaguely. That was, you know, almost
12 20 months ago.
13 **Q But I'm saying that's your testimony.**
14 A Yes, I'm taking responsibility of it.
15 I signed it.
16 **Q Someone else wrote it and you signed it,**
17 **right?**
18 A Not the whole -- I mean, I -- they
19 paraphrased it perhaps, but these are my -- these
20 are my, you know -- these are my word choices.
21 I can see that.
22 **Q Did Donelson write your declaration**
23 **and you signed it?**
24 A No, I've -- like I said, I've only

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1 seen Jim once in my life and that was in, what,
2 I want to say it was February of 2020, something
3 like that. I've only seen Jim -- I don't think so.
4 **Q I'm not asking whether or not --**
5 A I was -- I'll tell you --
6 **Q -- you've seen Jim.**
7 A The only guy who helped me with this
8 was Nick.
9 **Q You're referring to Mr. Iavarone?**
10 A Yeah.
11 **Q Did Nick Iavarone write Exhibit 508, which**
12 **is your January 2020 declaration?**
13 A I don't recall. I know that I was
14 at a meeting when we were working on it, though.
15 **Q Who was in the meeting with you?**
16 A Just Nick and I.
17 **Q Okay.**
18 A Because he's got all the legalese.
19 **Q Items F through H on your declaration from**
20 **January 2020, do you see those?**
21 A F through H?
22 **Q Yeah, F, G and H.**
23 A F, G and H?
24 **Q Yes.**

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1 A Yeah, yeah. Those are the same ones
2 that I had on the other side too.
3 **Q By "the other side" you mean Exhibit 507,**
4 **your August 9th --**
5 A Absolutely.
6 **Q -- report?**
7 A Absolutely.
8 **Q Mr. Burnside, Mr. Burnside, we're**
9 **starting to talk over each other a little bit**
10 **and I know --**
11 A Okay.
12 **Q -- it's going to be hard for Ms. Maslowski.**
13 **So I'll try to be better, but let's both be mindful,**
14 **okay?**
15 A Fair enough.
16 **Q So it sounds like the declaration, the**
17 **January 2020 declaration was drafted by Iavarone.**
18 **You signed it. And then is it fair to say that**
19 **you incorporated a lot of this language into your**
20 **August 9th report?**
21 A I'm going to say yes, not because
22 I purposely did it. It was in my folder, yeah.
23 I'm going to say yes, and I'm responsible for both
24 of these drafts. But as you can see, this is all

<p style="text-align: right;">Page 105</p> <p>1 my information. I mean, this is -- this is what 2 time spreads are. This is what butterflies are. 3 This is what a gut strategy is. I can guarantee 4 you most attorneys don't know how to write that kind 5 of stuff. 6 Q But Nick Iavarone does because he wrote 7 this, right? 8 A Well, he typed it up. I told him what 9 to write. 10 Q The Conclusion, Item 6, of your 11 January 2020 affidavit says, "For the reasons 12 stated above, it is Affiant's opinion that the 13 trading strategy for the recommended option trades 14 under Donelson's supervision could not only make 15 money, but given the environment, made sense to 16 recommend those option positions." Did I read that 17 conclusion accurately? 18 A You did. 19 Q Why didn't you incorporate that conclusion 20 into your August 9th report? 21 A Because in the conclusion of the 22 August 9th report was that it was -- I wanted 23 to make sure that -- and literally I went to the 24 internet to see what the conclusion would say,</p>	<p style="text-align: right;">Page 107</p> <p>1 difference. 2 Q Well, didn't you just testify that -- 3 A I'm not smart enough to tell you 4 that it's -- that I reinvented the wheel here. 5 Q Didn't you just testify that someone 6 sent it back to you and told you to take something 7 out? 8 A Well, yes. 9 Q Describe that to me. 10 A Well, I sent it to Jim and Jim said you 11 need a conclusion. So he sent it back to me and I 12 reformatted it and went on the internet and looked 13 at what the other people had done on the internet 14 for a conclusion, and that's what the majority 15 were saying. And so that's what I paraphrased 16 and implemented in my conclusion and nothing 17 more, nothing less. And then Jim sent it back 18 to you for that. 19 Q So the first version that you sent to 20 Mr. Falvey did not have a conclusion? 21 A I honestly don't know. 22 THE WITNESS: You -- 23 A Well, he's not going to answer. 24</p>
<p style="text-align: right;">Page 106</p> <p>1 and that was what their conclusion was. I just 2 basically was taking a format from the internet 3 and making sure that I didn't screw it up because 4 I had sent something and it was -- it was, quote, 5 not acceptable. So then I went on the internet 6 to see how to conclude the process, and that's 7 why I also included that I would be -- if you 8 look at my August 9th one, is it says I'll be 9 glad to show up at this kind of an environment 10 and be as honest as I am. 11 Q Let's take that back a step. When 12 you said that you sent a conclusion that someone 13 said was not acceptable, are you referring to 14 Exhibit 507, which is the August report, or are 15 you referring to Exhibit 508, which is the January 16 2020 declaration? 17 A The August 7th report. 18 Q So your August 7th report, you had 19 a different conclusion and someone sent it back 20 to you and said take that conclusion out. Do I have 21 that right? 22 A No, no, no, no, no. There was 23 no conclusion. I had to go to the internet to 24 find out how to conclude this thing. That was the</p>	<p style="text-align: right;">Page 108</p> <p>1 BY MR. PLATT: 2 Q You're the witness, Mr. Burnside. 3 A That's fine. I mean, honestly, 4 I -- you know, I'm not an attorney on this stuff, 5 right? I'm just trying to get you the information 6 and I'm trying to be as honest and as forthright 7 as I can be and as knowledgeable as I can be about 8 options trading. And to get into the minutia of 9 how my conclusion was different on this one versus 10 that one is nothing more than I literally went to 11 the internet, changed it because I saw some 12 differentials in that. 13 Q Let's go back to the conclusion on your 14 declaration from January 2020. 15 A Okay. 16 Q You say that -- you reference the 17 trading strategy. Do you see that in the first 18 sentence? 19 A In the conclusion on -- which one? 20 On this one? 21 Q Yeah, sorry. 22 A The trading strategy, yeah. 23 Q Under paragraph 6 you -- 24 A I see -- okay.</p>

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1 Q So we're talking over each other
2 a little bit, Mr. Burnside. I'll try and do
3 better. So under 6 --
4 A Yeah.
5 Q -- you write that it's your opinion
6 that "the trading strategy." What do you mean by
7 "the trading strategy"?
8 A The strategy that Long Leaf was
9 recommending, the options trades, could not only
10 make money but given the environment, made sense to
11 recommend these option positions.
12 Q Did you mean all the trades that
13 were recommended by Long Leaf between 2018 and
14 2019 or only one specific trade because do you
15 see the confusion? This is in the singular, but
16 you testified earlier that there are multiple
17 different strategies.
18 A And I even referenced multiple
19 strategies in this document, so I should have
20 said these strategies.
21 Q Okay. Yeah, that's fine.
22 A My bad.
23 Q That's helpful. Thank you for the
24 clarification.

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1 A No problem.
2 Q And then the --
3 A Again, not an attorney.
4 Q Yeah. And that's just why I'm asking the
5 questions, just to --
6 A Yeah.
7 Q -- just so we make sure everything's
8 clear. And then that sentence ends that Long
9 Leaf's trades, you know, it made sense to recommend
10 those option positions. What does it mean -- what
11 does that mean, that they made sense?
12 A So this goes back to the limited
13 risk with profit potential of a butterfly, guts
14 or time spreads or verticals. It's just good,
15 prudent risk management for any trading strategy.
16 Q Do I have it right that when
17 you opined that it made sense to recommend
18 the option positions in your conclusion to your
19 declaration, that that means that the options trades
20 you recommended could make money, not that they were
21 likely to make money? Do I have that right?
22 A They could make money, but then what's
23 also nice is that they have limited risk.
24 Q Yep, so that's the first part

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1 of the question. And, I apologize, we can break
2 it down because it's a compound question. So when
3 you say that it made sense to recommend Long
4 Leaf's option positions you mean, one, that they
5 could make money potentially, right?
6 A Right, yes.
7 Q You do not mean that it's your opinion
8 that they were -- any particular trade was likely
9 to make money, correct?
10 A That's correct.
11 Q And is it also true that you did not
12 account for commissions in your analysis in your
13 January 2020 declaration?
14 A That is correct. Again, I was just looking
15 at the options trades themselves.
16 Q Also in your conclusion you reference
17 the environment. What is that?
18 A The environment, lots of things
19 were happening in all kinds of asset classes. So
20 to have limited risk I thought was a prudent way to
21 make sure that the clients would not be in jeopardy
22 of losing a lot of money.
23 Q When you say lots of things
24 were happening, does that mean that markets were

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1 generally volatile during that time period?
2 A Individual markets were. But as an --
3 overall things had calmed down after the '08,
4 '09, 2010 crisis, but there were still individual
5 situations that were very unsettling, like interest
6 rates and such.
7 Q Where did you get the information
8 that allowed you to make the determination about
9 what the environment was? Did you get that from
10 Donelson or was that just something that you knew
11 generally from your participation in the markets?
12 A My general knowledge of the marketplace.
13 Q In your disclaimer in Exhibit 507 you
14 said that you did not trade in these markets during
15 said time of the complaint. "These markets" is the
16 futures options markets. So how could you make a
17 determination about the environment of the markets
18 if you weren't participating in them?
19 A Just because I'm not trading in
20 them doesn't mean that I'm not paying attention
21 to them because everything works together in the
22 economy, whether it's interest rates, gold, silver,
23 corn, wheat. They all have -- you've got to have a
24 general idea of what's going on in all the different

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1 assets to try to make some informed decisions.
2 I may not know every -- where every tick is, but
3 I have a general idea. It was more of a general
4 statement than a specific environment.
5 **Q I'd like to return to -- we talked about**
6 **it a little bit -- the manner in which your January**
7 **2020 declaration was drafted. And I think you said**
8 **it was drafted at a meeting with Donelson's lawyer**
9 **and you said --**
10 A Yeah, that was a long time ago. Go ahead.
11 **Q Can you describe how it was drafted?**
12 A I was looking at the overall trades
13 and making -- I made assessments and then Nick
14 would formulate what happened and then I would tweak
15 it and then he would put it in the, quote, legalese
16 concept.
17 **Q What do you mean when you said Nick would**
18 **formulate what happened?**
19 A I formulated what -- I would give
20 the information and then he would kind of put
21 it into a legal environment and make sure -- and
22 then I would review it and make sure that it was
23 accurate to what was -- what I wanted it to say.
24 **Q Do you remember where this meeting took**

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1 place?
2 A I think it was at my office in Northbrook.
3 **Q Iavarone came to your office to do this?**
4 A I'm sorry?
5 **Q Iavarone visited you at your office?**
6 A Yeah.
7 **Q Do you remember how long it took?**
8 A I don't. That was a long time ago.
9 **Q Do you think it took more than an hour?**
10 A I'm not even going to speculate because
11 I don't remember.
12 **Q So you didn't -- it wasn't like**
13 **you dictated the report to Mr. Iavarone, right?**
14 **You just were generally talking about trading?**
15 A I would write something and then
16 he would put -- like then he would try to put
17 it in a legalese word choice. And I'd be like,
18 well, that's not what I meant or I would say this
19 is what I mean. Just like he doesn't under -- he
20 wouldn't have understood a broken butterfly or
21 a time spread or a calendar spread or, you know,
22 things along those lines at all.
23 **Q In your conclusion you write that**
24 **it made sense to recommend those option positions.**

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1 **Were those your words or were those Iavarone's**
2 **words?**
3 A Those are my words. And the reason
4 that I said that was that to recommend these
5 options because it -- I'm always big on limiting
6 risk for the client. I pay attention to limiting
7 the risk, and it's just something that I've always
8 done or at least tried to do.
9 **Q We've already discussed, you know,**
10 **what your conclusion means, and I don't think we**
11 **need to belabor it.**
12 **MR. PLATT:** So I'm at kind of a natural
13 stopping point. Do you want to take a break
14 for lunch, half an hour?
15 **THE WITNESS:** Yeah, that's fine. Say
16 12:30 your time?
17 **MR. PLATT:** Yeah, that's fine. Let's go
18 off the record.
19 (Whereupon a lunch recess was taken
20 from 11:54 a.m., to 12:43 p.m., after
21 which the following proceedings were
22 had:)
23
24

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1 **AFTERNOON SESSION**
2 **MR. PLATT:** Let's go back on the record.
3 It's 12:43 Central, continuing the deposition
4 of John Burnside in the CFTC vs. Long Leaf
5 Trading litigation.
6 **JOHN F. BURNSIDE,**
7 called as a witness herein, having been previously
8 sworn and examined, testified further as follows:
9 **DIRECT EXAMINATION (Cont'd.)**
10 **BY MR. PLATT:**
11 **Q Mr. Burnside, before the lunch**
12 **break we were discussing your expert report**
13 **and the declaration you submitted back in January**
14 **of 2020, and I think one of the things we discussed**
15 **was that your opinion was that Long Leaf's trading**
16 **strategies could make money. Do you remember that?**
17 A I do.
18 **Q Do you have an understanding of whether**
19 **or not Long Leaf's trades did make money?**
20 A No, that was not my objective.
21 My objective was to look at the options trades.
22 **Q Did you ever ask Donelson how his trades**
23 **performed?**
24 A Not to my recollection.

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1 **Q** Did Donelson ever tell you that his
2 **trades performed either well or poorly or provide**
3 **any information about performance?**
4 A Not to my knowledge.
5 **Q** So you said you didn't ask Donelson
6 **how the trades performed. Why didn't you? Weren't**
7 **you curious?**
8 A That's a fair question, but I would
9 say that I was just looking at the structure of
10 the trades versus the -- because they had limited
11 risk capacities, and I would assume that you're in
12 a trade to make money.
13 **Q** Why do you assume that?
14 A Why else would you put on a trade?
15 **Q** Do you have an understanding as
16 **to whether or not Long Leaf Trading charged its**
17 **customers commissions?**
18 A You've brought it up several times,
19 so I'm going to guess at some point they did. But
20 I don't know the rates or what have you so ...
21 **Q** Setting aside the rates, did you
22 **ever know that Long Leaf charged its customers**
23 **commissions?**
24 A No.

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1 **Q** So just to sum up, you didn't know
2 **how Long Leaf's customers performed, you didn't**
3 **know -- you didn't ask Donelson for any performance**
4 **information, you didn't know that Long Leaf charged**
5 **its customers commissions and then you submitted a**
6 **report saying that the trades made sense, is that**
7 **right?**
8 A Yes, the trades did make sense
9 because I was looking at the pure trades themselves,
10 not all the other tertiary and things that you're
11 referring to, not because I don't care about those.
12 Just because I was just reviewing the actual trades
13 themselves, the options trades themselves.
14 **Q** Since you submitted your report,
15 **have you learned one way or another whether or**
16 **not Long Leaf's trades made money or lost money?**
17 A Well, since you've brought it up more
18 than once, I'm going to guess that they didn't make
19 a lot of money just from the standpoint of why we're
20 here.
21 **Q** So setting aside what you've
22 **learned today or gleaned from my questions,**
23 **were there any other sources of information before**
24 **today's deposition that provided information about**

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1 **the performance of Long Leaf's trades?**
2 A No, and the reason I say that is I was
3 just there to evaluate the actual trades themselves.
4 **Q** Would it surprise you to learn that Long
5 **Leaf's trades lost tons of money?**
6 A I would say yes.
7 **Q** I'm going to show what you we've
8 **marked as CFTC Exhibit 428, and I'll represent**
9 **to you that this is a summary of aggregate customer**
10 **account performance during the time that Donelson**
11 **owned the firm. So you'll see it's 3 columns and**
12 **25 rows, 1 row per month.**
13 A I've never (inaudible).
14 **Q** Excuse me?
15 A I said I've never seen a report like
16 this.
17 **Q** No, I understand that you've never
18 **seen this report --**
19 A Okay.
20 **Q** -- because you testified that you've
21 **never -- you did not receive any information about**
22 **the performance of Long Leaf's trades. I'm only**
23 **showing it to you to illustrate that the statements**
24 **of Long Leaf's customers reflect these losses.**

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1 **And on the right column, Cumulative Customer PNL,**
2 **do you see that?**
3 A I do.
4 **Q** For the Donelson era the cumulative
5 **monthly customer PNL is negative 2.376 million.**
6 **Do you see that?**
7 A I'm sorry. For which one?
8 **Q** The cumulative customer PNL, the very
9 **bottom row. So the last in time.**
10 A I just -- I get cut off at July '19.
11 **Q** Oh, sorry. I'll scroll down.
12 A Yeah, okay. I see that.
13 **Q** And you testified that it surprised
14 **you to learn that Long Leaf's customers lost tons**
15 **of money. My question is why did that come as**
16 **a surprise to you?**
17 A Because the options trades that he was
18 recommending were simple, viable and for the most
19 part risk-averse trades.
20 **Q** Can you think of a reason why risk-averse
21 **trades might lose such a significant amount of money**
22 **in the aggregate?**
23 A No, to answer your question.
24 **Q** I mean, can you speculate? Do you

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1 think maybe it's because they were not designed
2 to generate very much profit?
3 A That I don't know. I just know
4 that these trades were very limited in their risk.
5 But if these numbers are correct, something is
6 amiss. I'll say that.
7 Q But just as they were limited in
8 their risk, you also agree that they were limited
9 in their upside, right?
10 A Correct.
11 Q And Long Leaf also -- I guess you said
12 you didn't account for commissions in your analysis,
13 right?
14 A That's correct.
15 Q So you think those two factors could have
16 contributed to these stunning losses?
17 A I don't know what it could contribute
18 to but, yes, something is -- doesn't seem -- from
19 the trades that I saw to what you're showing me
20 here, there's something that's -- that disconnects.
21 Q Do you think the disconnect could be
22 flowing from the fact that -- I think admittedly
23 you didn't evaluate the trades to determine whether
24 or not they were likely to make money. You only

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1 analyzed the structure of the trades to determine
2 if they could make money. Is that the disconnect
3 maybe?
4 A Well, even if they lost money, they
5 had limited risk because they were defined, as
6 like in a butterfly or what have you. There's --
7 there is risk, but then at the same time it's
8 limited to these spreads, the width of the spread
9 of the trade. So I'm shocked at those numbers.
10 Q Where do you think the shock is coming
11 from?
12 A Only because of what you've brought
13 up several times today, is the commissions. I'm
14 guessing that is where you are heading.
15 Q I'm not heading anywhere, Mr. Burnside.
16 It's your testimony. I'm only asking you based on
17 your market knowledge. I understand you've been
18 a market participant for a long time.
19 A Yes.
20 Q And it's my speculation -- and I'll
21 ask you to confirm it or not -- that maybe the
22 disconnect between your analysis, which is the
23 trades could have succeeded, and the actual results
24 that we just looked at is coming from the fact that

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1 you didn't analyze the likelihood that the trades
2 would result in net profitability and you didn't
3 account for commissions. And maybe that wasn't
4 your words, but I think that's the source of the
5 disconnect. Do you agree with that?
6 A Well, again, even on -- even if he
7 lost money on every one of the butterflies, I'm
8 just using that as an example, he has limited risk.
9 So I'm shocked at those numbers.
10 Q Do you understand how many customers
11 Long Leaf had in 2018 and 2019?
12 A I have no idea.
13 Q So let's assume that Long Leaf had at
14 least 150 customers, okay?
15 A Okay.
16 Q And Long Leaf put on four trades per month,
17 okay?
18 A Okay.
19 Q So that's at least 600 trades per month,
20 right?
21 A Very simple math. There you go, yeah.
22 Q And they're all doing the same trade,
23 right?
24 A Okay.

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1 Q So there's a lot of trading activity
2 that's all going to either rise or fall together,
3 right?
4 A I would agree with that. If they all
5 have the same (inaudible), they'll all win or all
6 lose.
7 Q Yeah. So let's just sort of circle back
8 to this disconnect because I don't know if you're --
9 I think you're just -- I don't think you're evading
10 the question, but I just want to see if my guess is
11 right. And my guess is that the disconnect between
12 your analysis that the trades could have made money
13 and the devastating losses that we see here in this
14 two-year time period is flowing from the fact that
15 you didn't conduct an analysis as to the likelihood
16 that the trades would make money and the fact that
17 you didn't incorporate commissions into your
18 analysis.
19 A Okay. So, again, if you're making
20 a trade -- and I keep going back to the butterfly
21 just because it's at the top of the list. But
22 if I buy a butterfly on a \$20 vertical, on a \$20
23 spread -- or 20¢ spread, the goal is is to make
24 money on the spread, not to lose money on the

<p style="text-align: right;">Page 125</p> <p>1 spread. To your point, you wouldn't be in business</p> <p>2 very long if you kept losing money, right? So at</p> <p>3 that point your goal is to make clients money while</p> <p>4 at the same time you want them -- and hopefully they</p> <p>5 succeed and, therefore, they continue to be your</p> <p>6 clients. And the goal from my side was if I'm</p> <p>7 making the proper trade with the proper risk in</p> <p>8 this case, that you most certainly should have</p> <p>9 made some money on some trades that would generate</p> <p>10 positive returns for the clients.</p> <p>11 Q Maybe this is the disconnect. You</p> <p>12 said that you analyzed that some trades could</p> <p>13 make some money, but there was no attempt that</p> <p>14 I've seen to determine the likelihood that trades</p> <p>15 would make money or the magnitude of money that</p> <p>16 trades would make, is that fair?</p> <p>17 A Again, if you put on a butterfly</p> <p>18 trade, you're not going to spend 20¢ to put on</p> <p>19 a 20¢ wide market. It's just you wouldn't do it.</p> <p>20 You would have a -- going back to my probability</p> <p>21 earlier conversation, you would put up 4, 5, 6¢ to</p> <p>22 try to make 13, 14, 15¢ on it, and that would be</p> <p>23 the goal. You would not pay full value for that</p> <p>24 options strategy hoping to break even.</p>	<p style="text-align: right;">Page 127</p> <p>1 A Okay.</p> <p>2 Q I think it's your testimony that you</p> <p>3 never attempted to determine whether or not that</p> <p>4 broken wing butterfly would exceed the amount of the</p> <p>5 commissions, right?</p> <p>6 A Correct. Again, I was looking</p> <p>7 at the structure of the butterfly, or the broken</p> <p>8 butterfly in this case, to make sure that it was</p> <p>9 a viable option strategy.</p> <p>10 Q But you were not analyzing the trades to</p> <p>11 determine whether or not they were likely to make</p> <p>12 money, correct?</p> <p>13 A Correct, and I also did not receive</p> <p>14 any confirms on the fills.</p> <p>15 Q So in light of this information that</p> <p>16 we've just shown to you, which is taken directly</p> <p>17 from Long Leaf's customer statements, are you going</p> <p>18 to testify at trial that Long Leaf Trading's trade</p> <p>19 recommendations made sense?</p> <p>20 A Yes, they're still viable. They're</p> <p>21 still viable trades. They're viable strategies</p> <p>22 in the options world.</p> <p>23 Q Who lost \$2.3 million, Mr. Burnside.</p> <p>24 A All right. Well, okay. That's fine.</p>
<p style="text-align: right;">Page 126</p> <p>1 Q Do you know that that's what Donelson</p> <p>2 did?</p> <p>3 A I was just looking at the structure</p> <p>4 of the trades, just as I was -- I've mentioned</p> <p>5 it several times. I'm here to look at the structure</p> <p>6 of the trades and if they were viable trades. And</p> <p>7 if he paid more or less for whatever he was doing,</p> <p>8 then there could be losses and those weren't viable</p> <p>9 probability bets. But in the meantime, the</p> <p>10 structure of the trade itself was that, hey,</p> <p>11 he bought a butterfly and broken or non-broken or</p> <p>12 whatever you want to call it. Whether he bought</p> <p>13 a butterfly, it had limited losses. And, therefore,</p> <p>14 he would be able to -- should be -- if the trade</p> <p>15 was executed properly and all that, then he should</p> <p>16 have been able to make money for his clients.</p> <p>17 Q So let's go with the butterfly hypothetical</p> <p>18 that you keep returning to.</p> <p>19 A Yeah.</p> <p>20 Q It's a four-legged trade, right?</p> <p>21 A Yeah.</p> <p>22 Q Let's assume that Long Leaf was charging</p> <p>23 its customers \$20 per option in commissions. It's</p> <p>24 \$80 in, \$80 out, \$160, right?</p>	<p style="text-align: right;">Page 128</p> <p>1 I did not know how much he was charging in</p> <p>2 commissions. I did not know what the behind the</p> <p>3 scenes were. I never got any confirms. I'm just</p> <p>4 looking at the structure of a position. Now, was</p> <p>5 that 2.3 million of profit losses or all trading</p> <p>6 losses? Was it all commissions? Was it all --</p> <p>7 I don't know. I'm just looking at 2.3 million.</p> <p>8 But at the same time I'm saying that a butterfly</p> <p>9 is still a butterfly is still a butterfly, and it</p> <p>10 makes sense to have that as a viable -- as a viable</p> <p>11 trading strategy.</p> <p>12 Q But, Mr. Burnside, isn't the devil in</p> <p>13 the details? It's too cute to say that a butterfly</p> <p>14 is always capable of making money. Don't you have</p> <p>15 to look at the details of the trade?</p> <p>16 A You have to look at the details</p> <p>17 of the trade, but you would never put a -- like</p> <p>18 I told you, you would never put on a butterfly or</p> <p>19 vertical or anything else that had limited upside</p> <p>20 and all downside. You would have limited downside</p> <p>21 with more upside, if that makes sense.</p> <p>22 Q Is it your understanding that that's how</p> <p>23 Long Leaf designed its trades?</p> <p>24 A Any trader that I've ever known tries</p>

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1 to make money.
2 **Q Is it your understanding that that's**
3 **how Long Leaf designed its trades?**
4 A No.
5 **Q Would it surprise you to learn that**
6 **Jim Donelson has no professional experience in**
7 **the financial markets?**
8 A That would surprise me.
9 **Q Why would it surprise you?**
10 A Just because he's knowledgeable about
11 the options world and understanding how options work
12 on the conversations that we've had.
13 **Q Did he ever tell you that he had**
14 **professional trading experience?**
15 A He did not.
16 **Q I'm going to go back to -- I'm**
17 **going to shift gears a little and go back to**
18 **the documents and information that you relied**
19 **on in opining that Long Leaf's trades made sense.**
20 **So in your declaration, Mr. Burnside, which is**
21 **Exhibit 508, under paragraph 4 you list Material**
22 **Reviewed. Do you see that?**
23 A Yeah, yeah, I do.
24 **Q There's three bullets, trading**

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1 **history of Long Leaf, QuikStrike analysis and**
2 **trade narrative. What is the trading --**
3 A Yeah.
4 **Q What is the trading history of Long Leaf?**
5 A The trading narrative was that he
6 was buying butterflies, broken, and then he gave
7 me examples of it. Then he was doing time spreads
8 and verticals and then gave me examples of it and
9 then was selling guts, the middles, and buying wings
10 in regards to that trade as well. And I saw
11 those -- I saw all those examples.
12 **Q So are you referring to the trade narrative**
13 **or the trade history?**
14 A Just his narrative of what he's been doing.
15 **Q Okay. Was that a verbal discussion?**
16 A Yeah, that was -- yeah, that was a while
17 ago.
18 **Q Was it just you and Donelson?**
19 A Yes.
20 **Q How many times did you meet with Donelson?**
21 A Again, I only saw Jim one time
22 and we spoke on the phone several times besides
23 that, and I believe that it was during one of those
24 conversations that we talked about it.

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1 **Q Did the trade narrative occur before**
2 **you drafted the declaration or after you drafted**
3 **the declaration?**
4 A I'm going to say it was before.
5 **Q So do I have it right that the**
6 **trade narrative provided by Donelson in this**
7 **bullet point is one conversation between you and**
8 **Donelson that took place over the phone?**
9 A Yeah, and it may have been more than one.
10 I honestly can't remember.
11 **Q Did you take any notes during those**
12 **phone calls?**
13 A I may have. That was a long time ago.
14 **Q Have you looked for those notes recently?**
15 A Well, honestly, no, because I thought
16 that -- I had completely forgotten about this case
17 until June or July when I was contacted.
18 **Q Have you stored your files related to this**
19 **case in any particular places?**
20 A I have a OneDrive that has some
21 notes. It does not have -- I don't believe it
22 has this declaration in it or anything else, so
23 it's definitely not thorough by any means.
24 **MR. PLATT:** Okay. So, Mr. Falvey, I think

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1 those notes would probably be responsive --
2 **MR. FALVEY:** Yep.
3 **MR. PLATT:** -- to our request for
4 production, so maybe we could take a look
5 for those.
6 **MR. FALVEY:** Absolutely. I apologize
7 for that. I thought we went over it, but
8 we'll take care of it.
9 **BY MR. PLATT:**
10 **Q Okay. So the trade narrative, do**
11 **you remember what Donelson told you during this**
12 **conversation that occurred before January of 2020**
13 **about the trades?**
14 A Yeah, that he would do the -- he would
15 do broke -- I don't know if he classified them as
16 broken butterflies. I do. But it was a butterfly
17 that's not symmetrical. And then on top of that
18 we talked about verticals, which are pretty --
19 again, very simple, very simple trading strategies.
20 We talked about calendars or time spreads which,
21 again, pretty straightforward trading strategies.
22 And then he talked about how he would sell the
23 guts, which is the straddle in between or the
24 strangle in between, and buy wings to protect

<p style="text-align: right;">Page 133</p> <p>1 the clients' capital.</p> <p>2 Q And during this conversation it never</p> <p>3 came up whether or not Long Leaf's customers were</p> <p>4 making or losing money?</p> <p>5 A No. I expect if you've got customers,</p> <p>6 they're making money.</p> <p>7 Q When did Long Leaf first engage you?</p> <p>8 A I'm sorry. I don't know that answer.</p> <p>9 Q So your declaration is dated January 22nd</p> <p>10 of 2020. Do you think it was over one month before</p> <p>11 that date?</p> <p>12 A I feel pretty confident about that, yes.</p> <p>13 Q Do you think it was like three months</p> <p>14 before that date?</p> <p>15 A Sure, I'll say it's three months.</p> <p>16 It could be more or less, but it's definitely prior</p> <p>17 to that declaration.</p> <p>18 Q Okay. I understand that you were</p> <p>19 engaged prior to the declaration. I'm trying to</p> <p>20 understand if it was like a year before, a month</p> <p>21 before, three months before?</p> <p>22 A I honestly don't recall. As you</p> <p>23 can imagine -- as you have noticed, this is not</p> <p>24 my main business model. So I'm here to evaluate</p>	<p style="text-align: right;">Page 135</p> <p>1 one -- like one month might be too high versus</p> <p>2 another month. So he wanted to do a time spread</p> <p>3 or sell the straddle and buy the wing so that the</p> <p>4 client would have limited risk or if they, you</p> <p>5 know -- there might have been a time where he wanted</p> <p>6 to -- to think that corn's going up and so he'd do</p> <p>7 a butterfly in that, things along those lines.</p> <p>8 Q But did he explain the basis for</p> <p>9 his belief that volatility was either over or</p> <p>10 undervalued is what I'm getting at.</p> <p>11 A Not specifically.</p> <p>12 Q Did he ever tell you that he gambled in</p> <p>13 front of news events?</p> <p>14 A I don't -- I wouldn't use the word</p> <p>15 gamble. It's -- what happens is is volatility</p> <p>16 gets bid up ahead of news events, and so he tried to</p> <p>17 take advantage of that higher volatility and offset</p> <p>18 it with lower volatility options.</p> <p>19 Q Any other reasons, other than news</p> <p>20 events, that Donelson explained why he believed</p> <p>21 that volatility was either over or undervalued by</p> <p>22 the market?</p> <p>23 A Well, just like any trader, you can</p> <p>24 have relationship trading. And so you can have</p>
<p style="text-align: right;">Page 134</p> <p>1 options trades and that's -- he hired me to</p> <p>2 evaluate options trades and that's what I'm doing.</p> <p>3 Q What do you mean when you say it's not</p> <p>4 your main business model?</p> <p>5 A Well, obviously I've got my own</p> <p>6 companies that I run, right? The last time I was</p> <p>7 a professional witness was 2013.</p> <p>8 Q Yeah, I understand. Did Donelson</p> <p>9 explain how he came up with the legs and strikes</p> <p>10 and premiums for his trades during your discussions</p> <p>11 with him?</p> <p>12 A He just said that he found some</p> <p>13 anomalies of different volatility values and would</p> <p>14 try to take advantage of those.</p> <p>15 Q Did he explain how he identified those</p> <p>16 volatility anomalies?</p> <p>17 A We went more into the actual trading</p> <p>18 of what he was doing than the analysis that he put</p> <p>19 forth on how to get there.</p> <p>20 Q So it sounds like Donelson didn't</p> <p>21 explain or provide any information about how he</p> <p>22 selected the underliers for his particular trades?</p> <p>23 A No. He would look at some different</p> <p>24 asset classes that he felt either one was too high,</p>	<p style="text-align: right;">Page 136</p> <p>1 either one week or one month that's trading higher</p> <p>2 than the other, and you can try to take advantage</p> <p>3 of that within the same contracts or -- and so</p> <p>4 that's done all the time to try to make sure that</p> <p>5 you are just not naked selling straddles or naked</p> <p>6 selling strangles because you'd always want to have</p> <p>7 the wings in place just in case something crazy</p> <p>8 happened.</p> <p>9 Q Does it make sense to you that</p> <p>10 Jim Donelson sitting in his office knows more</p> <p>11 about whether volatility is properly priced than</p> <p>12 the market? Does that make sense to you?</p> <p>13 A It's -- sometimes the market gets</p> <p>14 it wrong. So he's trying to take -- he's trying</p> <p>15 to take an anomaly of a price increase or decrease</p> <p>16 and taking advantage of that. That happens all</p> <p>17 the time in all asset classes, whether it's the</p> <p>18 ones we're referring to here, stocks, whatever.</p> <p>19 So because you have a -- I'll use your term, like</p> <p>20 a -- I don't know. What's it called, USDA</p> <p>21 announcement or something, you know, the food,</p> <p>22 whatever, the food announcement, grain announcement</p> <p>23 or something to that effect. So, you know, those</p> <p>24 things, yeah, they're going to probably move the</p>

<p style="text-align: right;">Page 137</p> <p>1 market more, but at the same time the volatility's</p> <p>2 priced in and he's trying to take advantage of that</p> <p>3 price movement while still having assets to protect</p> <p>4 it in case it does move beyond his limit.</p> <p>5 Q Well, we've seen how well Donelson's</p> <p>6 ability to exploit market inefficiencies worked</p> <p>7 out for Long Leaf customers, so let's move on.</p> <p>8 Under the Material Reviewed in your declaration,</p> <p>9 the second -- or, excuse me, the first bullet point</p> <p>10 is, "Trading History of Long Leaf with position</p> <p>11 description and actual options traded." What does</p> <p>12 that bullet point represent?</p> <p>13 A Just I reviewed several trades that</p> <p>14 were made, as we've talked about ad nauseam here,</p> <p>15 in regards to whether it was a broken butterfly, a</p> <p>16 butterfly, a vertical, a time spread, the gut trade,</p> <p>17 which means selling in the middle and buying the</p> <p>18 wings, things along those lines.</p> <p>19 MR. PLATT: I'm going to show you</p> <p>20 what I'm going to mark as -- I think we're</p> <p>21 up to Exhibit 512.</p> <p>22 (Whereupon CFTC Exhibit No. 512</p> <p>23 was marked for identification.)</p> <p>24 Q And this is an Excel file titled</p>	<p style="text-align: right;">Page 139</p> <p>1 Q Okay. I'm going to --</p> <p>2 A I wouldn't call me an expert. I would say</p> <p>3 that I'm competent on it.</p> <p>4 Q Okay. I'm going to sort Column B, right,</p> <p>5 by -- at least I thought I was going to.</p> <p>6 A I feel your pain.</p> <p>7 Q Do you see the first -- I sorted</p> <p>8 from oldest to newest. The first trade is January</p> <p>9 of 2019. Do you see that?</p> <p>10 A I do.</p> <p>11 Q I'm going to scroll down to the bottom.</p> <p>12 The oldest trade in Column E is July 24th of 2019.</p> <p>13 Do you see that?</p> <p>14 A Oh, yeah, yeah, yeah. I'm sorry, yes.</p> <p>15 Q Do you agree that this file covers</p> <p>16 trading activity from January 2019 to July 2019?</p> <p>17 A I feel pretty confident about that.</p> <p>18 Q Do you know what trades are included</p> <p>19 in this file?</p> <p>20 A I'm looking at -- I'm looking at</p> <p>21 the trades. So, for example, the top one is he</p> <p>22 bought a March 146 call in the bonds. He bought</p> <p>23 a March 151 put, right? He sold a 149 call, sold</p> <p>24 a 146 put and then made an adjustment to sell the</p>
<p style="text-align: right;">Page 138</p> <p>1 Trading Summary. Do you recognize this document,</p> <p>2 Mr. Burnside?</p> <p>3 A Please hold. Yeah, I've seen it.</p> <p>4 Of course, yes.</p> <p>5 Q Did you have this document -- or did</p> <p>6 you rely on this document in drafting your expert</p> <p>7 report in this case?</p> <p>8 A Yeah, so -- yeah. So we can go</p> <p>9 through a couple trades, if you so desire, of what</p> <p>10 I was looking at.</p> <p>11 Q What information is on this document?</p> <p>12 A So on -- what the hell is that.</p> <p>13 Column F is what he's trading and then the quantity</p> <p>14 is on Column H, and those were the predominant</p> <p>15 columns that I was looking at.</p> <p>16 Q Okay. So this is an Excel file</p> <p>17 that I'll represent to you has 185 rows of data.</p> <p>18 And do you see Column B is Trade Month?</p> <p>19 A I do.</p> <p>20 Q And Column E is Entry Date?</p> <p>21 A I do.</p> <p>22 Q Are you familiar with Excel, Mr. Burnside?</p> <p>23 Do you use it?</p> <p>24 A Yeah, I do.</p>	<p style="text-align: right;">Page 140</p> <p>1 other 146 put.</p> <p>2 Q Do you have an understanding of what trades</p> <p>3 Donelson included in this file?</p> <p>4 A I guess I don't understand the question.</p> <p>5 Q Sure, sorry. It's a bad question.</p> <p>6 Do you think this is all of Long Leaf's trades</p> <p>7 from January 2019 through July of 2019?</p> <p>8 A I was assuming so, I guess.</p> <p>9 Q I don't know one way or another. So I'm</p> <p>10 asking you if --</p> <p>11 A Yeah, I would say this is the file</p> <p>12 I received. I'm thinking that that's -- he's</p> <p>13 got no reason not to tell me what he did and so,</p> <p>14 therefore, let me look at them.</p> <p>15 Q Did Donelson tell you that this included</p> <p>16 all the trading activity from January 2019 through</p> <p>17 July 2019?</p> <p>18 A I don't recall him stating that by,</p> <p>19 you know, here's everything, but I would assume</p> <p>20 that he's got nothing to hide with me. Let me see</p> <p>21 all your trades.</p> <p>22 Q Do you see the Greeks anywhere in this</p> <p>23 file?</p> <p>24 A I'm sorry. The Greeks?</p>

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1 Q Yeah. Where are the Greeks?
2 A I do not.
3 Q I'm going to -- can you see that
4 I'm switching to a different tab, Mr. Burnside?
5 A Well, go for it. Let's see what happens.
6 Okay, yeah.
7 Q So I'm now on the tab labeled Summary.
8 I don't know if you can see the bottom of the file.
9 A I cannot see the bottom of the file,
10 but we can -- maybe can you just point -- well,
11 maybe I can pull the thing down. Hold on, hold on.
12 Okay, hold on. Bear with me. Okay. Yeah, that's
13 better. Okay, sorry. I made mine a little bit
14 bigger.
15 Q In Column C I'm going to unfilter this
16 column --
17 A Under Column C?
18 Q Yes, Column C. I'm going to unfilter
19 Column C to include both open and closed trades.
20 Do you see that?
21 A Okay.
22 Q So now we have all the closed trades
23 from January 2019 through July of 2019. Do you see
24 that? There's 38 rows.

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1 A Okay, yeah.
2 Q What information is in Column H?
3 A I'm going to say it's the PNL.
4 Q It's titled Profit, right?
5 A Yeah.
6 Q I'm going to sum up Column H for the
7 trades that are closed, and I don't know if you
8 can see the bottom of this file but I'll represent
9 to you that it says negative \$4,822.
10 A Okay, I'll take your word for it. I can't
11 see it, but I'll take your word for it.
12 Q This is information that you had available
13 to you when you drafted your --
14 A Yeah, I -- yeah, that's fine.
15 Q Did you ask Donelson about Column H on
16 the trading summary file?
17 A I'm sorry?
18 Q Did you ask Donelson about Column H on
19 the trading summary file?
20 A I did not.
21 Q Is there anything that we've seen
22 on this file that would tell you whether or
23 not a particular trade was likely to lose money
24 or likely to make money?

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1 A I do not see that as a probability, no.
2 Q Sorry. I took down Exhibit 512 too
3 quickly.
4 A That's okay.
5 Q And we're still -- we're on the
6 main tab right now, the Detail tab. I'm going to
7 scroll over --
8 A Okay.
9 Q -- and highlight Column M. Do you see
10 that?
11 A M, as in Mary?
12 Q Yeah.
13 A Okay.
14 Q What's the title of Column M?
15 A Commissions.
16 Q And what's the value populated in every
17 row for Commissions?
18 A 20.
19 Q So do you remember reviewing QuikStrike
20 documents?
21 A I do.
22 Q What is QuikStrike?
23 A It was a valuator. It's kind of like
24 a simulator of trades and what each part as it's

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1 broken down would look like.
2 Q Do you use QuikStrike in your daily duties?
3 A No.
4 Q Have you ever used QuikStrike?
5 A Just very limited.
6 Q It's a web application, right?
7 A I believe so, and you can get
8 a subscription as well to get more enhancements
9 and blah, blah, blah so ...
10 Q So when Donelson provided QuikStrikes
11 to you, he sent you screenshots, right? Is that --
12 I'm going to mark CFTC Exhibit --
13 A Yes, I see this. I've seen this.
14 MR. PLATT: This is Exhibit 513.
15 (Whereupon CFTC Exhibit No. 513
16 was marked for identification.)
17 A Okay.
18 Q And this is a two-page PDF titled
19 April 16, 2019. What's going on here? What kind
20 of trade is this?
21 A Can you just -- can you do me a favor
22 and just go down a little bit? I can't open my
23 screen big enough.
24 Q Sure. Let me point you to -- do you

<p style="text-align: right;">Page 145</p> <p>1 see where the Greeks are, the little green boxes 2 on top? 3 A Yes, I do. I see the Greeks. 4 Q Under the Greeks do you see, it's the 5 two legs, Long Guts Strangle, Short Strangle? 6 A Yeah, okay, yes. 7 Q Does that help you determine what category 8 of trade this trade is? 9 A Yeah, yeah. So what he was doing 10 here is he's bought -- in essence he's bought the 11 144 and the 149 I'm calling in-the-money options, 12 for lack of a better term. And then because it's -- 13 the future price is 46.10, so they're both in the 14 money. And then he sold the 45-1/2 and the 47-1/2 15 strangle to offset that purchase. 16 Q So he's long the monthly strangle and 17 short the weekly strangle, right? 18 A That's right. 19 Q Is this what Donelson called the gut 20 strangle? 21 A Yes. 22 Q Is there anything on this document that 23 reflects the cost of commissions? 24 A Not that I have ever seen.</p>	<p style="text-align: right;">Page 147</p> <p>1 A It is. 2 Q Have you ever traded a gut strangle? 3 A I have. 4 Q When's the last time you traded a gut 5 strangle? 6 A Well, I've kind of put myself into 7 them sometimes, but it's a way to generate theta 8 for perhaps owning something in the future. I don't 9 know exactly the behind the scenes on this, but 10 maybe there was a report coming out in 35 days or 11 something and he wanted to own those and he was 12 trying to get it to have some reducing of costs. 13 Q So the question is -- 14 A Again -- go ahead. 15 Q So the question is when is the last 16 time you implemented a gut strangle for yourself 17 or for your clients? 18 A I would say that I do -- I probably 19 have never done a gut strangle for my clients 20 because that's not my -- what I need to do, but 21 I would put on a condor or a butterfly. 22 Q Have you ever traded a gut strangle? 23 A Only when a client -- like when I was 24 on the floor, some people would trade these and</p>
<p style="text-align: right;">Page 146</p> <p>1 Q Is there anything on this document 2 that would reflect whether or not this trade is 3 likely to result in net profits? 4 A Well, there it is. Again, it's a time 5 spread. So as you see, the -- you've got days on 6 the long straddle -- on the long strangle I mean 7 of the 38 and on the short stuff you've got roughly 8 eight days left. So he's trying to capture a little 9 bit of -- in my opinion he's trying to capture a 10 little bit of theta in that regard, and that is not 11 an unusual situation to have that position on. 12 Q Where on this document is the 13 probability that this trade will result in net 14 profits reflected? 15 A It's not. Again, it's more of 16 a theta play versus a vega play. Not that 38 days 17 is a big vega, but it's more vega obviously than 18 8 days. 19 Q I'm not asking whether or not it's 20 a theta play or a vega play, but thank you for that 21 analysis. 22 A Yeah. 23 Q So this is a gut strangle, right, 24 Mr. Burnside?</p>	<p style="text-align: right;">Page 148</p> <p>1 I would make a market in them and I'd make -- 2 you know, I'd provide liquidity. 3 Q So to the extent you've traded 4 a gut strangle, it was in your role as a market 5 maker at least 15 or 20 years ago, is that right? 6 A That's correct. 7 Q And you can't put an exact time on it, 8 right? 9 A Right. I would not -- I would agree 10 with that. 11 Q In your role sort of as either 12 a proprietary trader or as an advisor, you don't 13 use this strategy, right? 14 A I do not, no. 15 Q Do you know what I mean when I use the 16 term commodity interest? 17 A Commodity what? 18 Q Interest. 19 A No, I don't know what that means. 20 Q So I'll represent to you that it's 21 a legal term that means an option swap or future 22 on a commodity, so like -- 23 A Uh-hmm. 24 Q -- gold futures, FX or --</p>

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1 A Okay.

2 Q -- certain currency futures. When

3 is the last time that you traded an instrument

4 involving a commodity interest?

5 A Back in '89 I would say. Well, maybe

6 I dabbled at G-Bar a little bit, but you get the

7 idea. For the real part of this conversation the

8 options were -- especially in the options world,

9 it was '89.

10 Q Going back to the QuikStrike, which is

11 Exhibit 513, do you see the underlier is -- I think

12 it's Treasury futures. Do you agree with that?

13 A I do.

14 Q Is there any information on this

15 document that reflects the historical volatility

16 of Treasury futures?

17 A Not that I know of, but then again,

18 I don't use this on a daily basis. But I can

19 see what the, you know, the volatility is of each

20 segment of the gut swap.

21 Q That's not historical volatility, though,

22 right? That's implied volatility --

23 A Yeah, that's the estimated implied

24 volatility, correct.

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1 Q So just looking at this document,

2 there's no way to tell, you know, if the underlying

3 Treasury futures were relatively high or relatively

4 low with regard to historical volatility at the time

5 this trade was placed. Do you agree with that?

6 A I would agree with that, to the best of my

7 knowledge of understanding QuikStrike.

8 MR. PLATT: I'm going to show you

9 Exhibit 514.

10 (Whereupon CFTC Exhibit No. 514

11 was marked for identification.)

12 Q You see this is another QuikStrike.

13 This one's dated March 15, 2019 and this is another

14 gut strangle on corn futures. Do you agree with

15 that analysis?

16 A I do.

17 Q And there's like a little annotation

18 there Donelson must have put on. It says the

19 volatility is highlighted below, checkmark,

20 checkmark. Do you see that?

21 A Yep.

22 Q And then there's like a little box

23 for ATM Volatility and it looks like a free text

24 field. Do you see that?

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1 A I do. It's the one that's highlighted in

2 yellow. Would you agree with that?

3 Q Let me ask you. Do you see At the Money

4 volatility is highlighted in yellow?

5 A Yes. How about that, yes. Fair enough.

6 Q Did Donelson tell you that he typed those

7 values in?

8 A No.

9 Q Did Donelson tell you how he came up

10 with the implied volatility values that he used

11 in his trade analysis?

12 A Well, here again, I'm assuming that

13 this is just taken right off of QuikStrike and that

14 he's selling a 20.32 vol and buying a 17 point, what

15 is that, 8 vol and trying to capture some of that

16 volatility differential.

17 Q But it sounds like that's your

18 assumption and you don't even use this application.

19 Like Donelson didn't tell you I came up with these

20 volatilities and I put them in here and this is how

21 I came up with them, right? He never said anything

22 like that?

23 A Well, that would be -- like I'm

24 looking at that. So in essence this is usually

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1 you personally put those in, but that would be

2 the case of what would be a normal trade of trying

3 to take advantage of a gut swap.

4 Q Let me ask it a little bit differently

5 because I think I asked a confusing question. You

6 don't use QuikStrike, right?

7 A I mean, like I said, I probably used it

8 five times in looking at this stuff. So go ahead.

9 I'll do my best.

10 Q You don't know whether or not --

11 you don't know the source of the volatility

12 values that are typed into this file, correct?

13 A No.

14 Q And Donelson didn't tell you how he came

15 up with his --

16 A The only thing that I would know

17 as a fact is that I'm assuming that this is the

18 at-the-money volatility of the 14 days, and I'm

19 assuming that this is the at-the-money volatility

20 of the 42 days. This goes back to just being able

21 to read what's going on and trying to take advantage

22 of what's happening in the marketplace. Now, if

23 those numbers are wrong, I'm not going to go

24 through, you know, every trade and go do a

<p style="text-align: right;">Page 153</p> <p>1 QuikStrike to see if, you know, on what date what</p> <p>2 this was trading.</p> <p>3 Q Have you ever held a QuikStrike account?</p> <p>4 A No.</p> <p>5 Q Have you ever used someone else's</p> <p>6 QuikStrike account?</p> <p>7 A Yeah, I think a buddy of mine had one</p> <p>8 once and I was trying to learn on it.</p> <p>9 Q When do you think that was?</p> <p>10 A That could have been during the</p> <p>11 Quiddity event. I don't -- it could have been</p> <p>12 eight, nine years ago.</p> <p>13 Q What liquidity event are you referring to?</p> <p>14 A No, Quiddity. The other people that</p> <p>15 I (inaudible).</p> <p>16 Q Do you mean that you used it in connection</p> <p>17 with your retention as an expert witness or do you</p> <p>18 mean that you used QuikStrike --</p> <p>19 A The Quiddity -- or, I mean, excuse me.</p> <p>20 QuikStrike is used more frequently in the commodity</p> <p>21 world. There's other things that are used in the</p> <p>22 financial world that I'm more versed in, but it</p> <p>23 all says about the same amount of stuff.</p> <p>24 Q Have you ever used QuikStrike in analyzing</p>	<p style="text-align: right;">Page 155</p> <p>1 A A long time ago to evaluate the other</p> <p>2 CFTC person I was trying to defend.</p> <p>3 Q What do you mean when you say you used</p> <p>4 QuikStrike during the Quiddity period?</p> <p>5 A Quiddity traded options just like this,</p> <p>6 so I was brought up to speed on what QuikStrike --</p> <p>7 how it worked, what goes on. It's -- from my</p> <p>8 standpoint, from what I do on a regular basis,</p> <p>9 I deal in the stock world. So this is not -- I</p> <p>10 don't need all the different commodities involved.</p> <p>11 Q The only other time you've interacted with</p> <p>12 QuikStrike, were you given printouts of QuikStrike</p> <p>13 or were you using the application yourself?</p> <p>14 A I was using the application.</p> <p>15 Q Do you know whether the at-the-money</p> <p>16 volatility on the QuikStrikes that Donelson provided</p> <p>17 to you were automatically generated or were input</p> <p>18 by Donelson?</p> <p>19 A I do not know.</p> <p>20 MR. PLATT: I'm going to show you</p> <p>21 what I'm going to mark as CFTC Exhibit 515,</p> <p>22 and this is another QuikStrike dated July 24,</p> <p>23 2019.</p> <p>24</p>
<p style="text-align: right;">Page 154</p> <p>1 any of your trades?</p> <p>2 A No.</p> <p>3 Q In what context have you ever used</p> <p>4 QuikStrike?</p> <p>5 A Just to review what was going on at</p> <p>6 that time and to see where things were trading.</p> <p>7 Q What do you mean by "that time"?</p> <p>8 A Just like this is saying that this</p> <p>9 is a 20 vol and this is a 17 vol. That's it.</p> <p>10 Or what was bought, what was sold. I know what</p> <p>11 the graphs look like when I sell the guts and I buy</p> <p>12 the wings. I mean, that's pretty simple, but that's</p> <p>13 not the issue. It's the gut of this information.</p> <p>14 And as you can see, like, you know, you can get a</p> <p>15 lot of data points, whether it's gamma or what have</p> <p>16 you, up above.</p> <p>17 Q So I don't understand the answer.</p> <p>18 Have you ever used QuikStrike, Mr. Burnside?</p> <p>19 A Yes, I have but very rarely.</p> <p>20 Q To the extent you've used QuikStrike,</p> <p>21 you have not used it in connection with your own</p> <p>22 trading, right?</p> <p>23 A Correct.</p> <p>24 Q When did you use QuikStrike?</p>	<p style="text-align: right;">Page 156</p> <p>1 (Whereupon CFTC Exhibit No. 515</p> <p>2 was marked for identification.)</p> <p>3 Q Do you agree that this is another gut</p> <p>4 strangle, this time on gold futures?</p> <p>5 A I do.</p> <p>6 Q And I'm going to show you CFTC Exhibit --</p> <p>7 A Well, this is -- he is now long the</p> <p>8 guts and short the wings. But that's okay, yeah.</p> <p>9 Q So I'm going to go back to Exhibit 514.</p> <p>10 This is the corn QuikStrike that we just looked at.</p> <p>11 A Yes, sir.</p> <p>12 Q Is it the same structure as Exhibit 515?</p> <p>13 A No. This one was -- this one was actually</p> <p>14 two time spreads.</p> <p>15 Q It's your testimony --</p> <p>16 A He's long the 380 calls in 42 days.</p> <p>17 He's short the 380 calls in 14 days. He's long</p> <p>18 the 360 puts in 42 days, and he's short the 360 puts</p> <p>19 in 14 days.</p> <p>20 Q Okay. I thought you testified that this</p> <p>21 was a gut strangle.</p> <p>22 A I was -- I was wrong.</p> <p>23 Q And what would you call this? What bucket</p> <p>24 does this fall into?</p>

<p style="text-align: right;">Page 157</p> <p>1 A That's your time spread, or calendar 2 spread. Some people call it that. 3 Q Just to drill down a tiny bit 4 on Exhibit 514, do you agree that this trade is 5 long the monthly strangle? 6 A Yes. 7 Q And it's short the weekly strangle? 8 A Right. He's got two time spreads on there, 9 the put and the call. 10 Q And then Exhibit 515 -- 11 A He's long the 320 and the 3 -- he's 12 long the 320 puts, long the 330 -- or, excuse me, 13 1420 puts, 1430 calls and he's short the 1400 puts 14 and the 1450 calls. 15 Q And is the distinction you're drawing 16 between Exhibit 514 and Exhibit 515 is the strikes 17 are the same in 514? 18 A That's correct. 19 Q Got it. 20 A But, again, this is a time vertical 21 but you -- it's okay. 22 MR. PLATT: And then the last one, 23 I promise. 24</p>	<p style="text-align: right;">Page 159</p> <p>1 (Whereupon CFTC Exhibit No. 517 2 was marked for identification.) 3 Q My first question is going to be do you 4 recognize the document? 5 A I do. I had a little bit of trouble 6 with this one, but go ahead. 7 Q What information is on this file? 8 A Right now we've got the -- well, 9 in the Column A we've got the trade month and 10 then the Trade Description in B is nothing, the 11 Underlying, Contract, Buy, Sell, Type and I believe 12 that's Direction, do you agree, in H? 13 Q What did Donelson tell you about this 14 document? 15 A He and I -- he and I really didn't 16 discuss any of the documents. He kind of let 17 me figure it out for myself, and the reason was 18 is because -- go ahead. 19 Q I cut -- 20 A He wanted me to come up with -- 21 Q I cut you off. Please continue. 22 A I said he just wanted me to kind of 23 figure out what was going on here by myself so -- 24 which is fine.</p>
<p style="text-align: right;">Page 158</p> <p>1 (Whereupon CFTC Exhibit No. 516 2 was marked for identification.) 3 A Good. 4 Q Exhibit 516 -- 5 A Okay. 6 Q -- is the fourth QuikStrike that Donelson 7 provided to you. Do you agree that this is another 8 gut strangle? 9 A He's long the 125s, he's short the 10 12, yeah, 13, 1375s, yes. No, he's long the 11 call spread and he's -- yeah, he's long the guts 12 and short the wings, sure. And it's a time spread, 13 just like the previous one. 14 Q And on all of these four QuikStrikes 15 Donelson is long a long-dated straddle, right? 16 A Yeah. 17 Q And he's short a short-dated straddle, 18 right? 19 A Correct. 20 MR. PLATT: I'm going to show you 21 what I'm going to mark as Exhibit 517, and 22 this is another Excel file. 23 24</p>	<p style="text-align: right;">Page 160</p> <p>1 Q But did you ask Donelson about this 2 file and he didn't know or -- 3 A No. 4 Q -- you just didn't ask him? 5 A I just didn't ask him. 6 Q And what did you figure out from this 7 document, or did you not rely on it? 8 A Well, so this goes back to my premise 9 of this whole thing. Like you could see what he's 10 buying. You could see what he was selling, whether 11 it's 1 or 93 or whatever the case might be. So I 12 was able to put the pieces of the puzzle together 13 and then -- and verify that it was what it says 14 over in Q, that the iron condor or what have you. 15 Q I'm going to just scroll down here. 16 You'll see that as of November of 2017, Column B 17 begins to be populated with what looks like a short 18 descriptor of the trade. Do you see that? 19 A I do. 20 Q And then the chronological order of 21 this file cuts off at September of 2018. Do you 22 see that? 23 A I do. 24 Q Do you see any information on this</p>

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1 file that would tell you the likelihood that
2 any of the trades would result in net profits for
3 customers?
4 A No. Again, this was me making sure
5 just reviewing these trades and saying okay, this
6 is a call spread or this is a broken wing or this
7 is, you know, whatever the case might be, and so
8 that was my analysis of this. I did not -- again,
9 I did not get the fills on where these things
10 traded, so I don't know whether they were profitable
11 or what prices were paid or things along those lines
12 so that I didn't -- I just didn't have that --
13 I didn't get the confirms.
14 Q Yeah. And there's nothing on here that
15 would reflect that the trade was designed to have
16 positive expected returns, correct?
17 A I would agree with that.
18 Q There's nothing on this file reflecting
19 how much commissions were charged per trade, right?
20 A Not on this file, correct, as far
21 as I can see. Now, you know, there's -- there might
22 be some more, but I don't think there is on this
23 file.
24 Q I'll represent to you that this is the

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1 only tab on this spreadsheet that --
2 A Yeah, I see -- I see nothing about
3 commissions. I see nothing about probability of
4 outcome. I see nothing.
5 Q And --
6 A All I'm looking -- yeah. My whole
7 goal here is to make sure that we've got, you
8 know, hogs and, you know, and we've got two of
9 these and one of those and one of those and so
10 on and so forth.
11 Q Am I right that you relied on this
12 file to verify that Donelson was actually trading
13 sort of broken wing butterflies, covered strangles,
14 broken wing condor, call spreads, that kind of
15 information?
16 A That's exactly correct.
17 Q So what about September 2018 through
18 December 2018, was there any information that
19 Donelson provided to you about that time period?
20 A Let me check. Yeah, I did get one
21 from Sep '18. You said -- wait. Sep '18, right?
22 Q So do you recall --
23 A To -- go ahead. I'm sorry.
24 Q Do you recall that Exhibit 517 ended

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1 in September of 2018?
2 A Yeah.
3 Q And the other Excel file we looked
4 at didn't begin until January of 2019, right?
5 A Right.
6 Q And so there's a gap of October,
7 November and December of 2018. And I'm trying
8 to understand did you have any information about
9 Long Leaf's trading activity during that gap?
10 A From September of '18 to roughly January
11 of '19?
12 Q The gap is actually October through
13 December of 2018, but yes.
14 A I mean, I think I've got one here.
15 Yeah, it's got like November and December and
16 January -- and September and stuff on it.
17 Q Mr. Burnside, what document are you
18 looking at?
19 A I don't know. I got it on 9/20.
20 Q Can you turn it towards the camera?
21 MR. FALVEY: Well --
22 A Yeah, this -- here, I can turn this.
23 How about this?
24 MR. FALVEY: It should have been in the

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1 zip file.
2 A Yeah, it was in the zip file.
3 BY MR. PLATT:
4 Q Okay. What's the title of the -- what's
5 the file name?
6 A I think it was Trading and I renamed it
7 to Trading 9-18 through 1-19.
8 MR. PLATT: Okay. I'll represent
9 to you that we don't have that document.
10 So, Mr. Falvey, maybe you can produce --
11 THE WITNESS: Absolutely.
12 MR. PLATT: -- that to us.
13 MR. FALVEY: Yeah, okay, yeah.
14 A Sorry. I'm not --
15 BY MR. PLATT:
16 Q That's okay. It sounds like there's
17 a document, Mr. Burnside, that's an Excel file that
18 covers October of 2018 through December of 2018 --
19 A Yeah.
20 Q -- is that right?
21 A Yeah, September of '18 to -- I actually
22 had it down as September of '18 to January of '19.
23 So it might have ended on December of '18. But
24 whatever it is, you're going to get it.

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1 **Q** Let me ask you this, Mr. Burnside.

2 **Is the information in the file you're looking at --**

3 **actually, can you tell me the name of that file?**

4 **Like what's the name of it on your computer?**

5 **A** On my computer it says Trading -- excuse
6 me, Trading 9-18 to 1-19.

7 **Q** Okay. And on that file that you're

8 **looking at --**

9 **A** Yes, sir.

10 **Q** -- does it have substantially the
11 **same information as CFTC Exhibit 517, which was**
12 **the Trading Details Excel file?**

13 **A** Yeah. I mean, it's not as -- honestly,
14 it's not as clean as what you had. And I can send
15 it to you, but it doesn't -- like you had all the --
16 you know how you had all the granules, like the 2 by
17 2 and the 3 by 2 and whatever it was? This did not
18 have that, but I'd be glad -- obviously I'll share
19 it with you. I don't have any reason to hold it
20 or whatever.

21 **Q** Can you read the --

22 **A** I'm going to send this to Jim right now.
23 Do you mind?

24 **Q** I'm not going to look at it right now.

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1 **Can you read that name --**

2 **A** Okay.

3 **Q** Can you read the headings of the columns,
4 **please.**

5 **A** Absolutely. So there's three tabs,
6 Sheet 3, Sheet 2 and 1 Lot, okay? And on the
7 1 Lot the tab is Trade Date, Total Fee, Commission,
8 Commission Currency, Volume, Adjustment Description,
9 Trade, Trade Option, Date, Future, Future Value,
10 Volume, Commissions, Net, Trade Month. That's
11 on one tab, Jody.

12 **Q** Okay.

13 **A** And then -- are you good with that?

14 **Q** Yeah, we'll look at the document later.
15 **I'm just curious what information is on there for**
16 **now.**

17 **A** That's fine. On Tab 2 it has Trade
18 Months and then it's got 201809 and then 201809
19 Total and then 201810 and then 2018 Total. I think
20 you get the idea here, right? And then grand total.

21 **Q** When did --

22 **A** I'm sorry. Go ahead.

23 **Q** When did you receive this document,
24 **Mr. Burnside?**

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1 **A** Honestly, I thought it was in the zip
2 drive.

3 **Q** No. I mean when did you get it? Did you
4 **get it like way back in 2019?**

5 **A** Well, it says 9/20 of this year.

6 So I might have made some adjustments to it, but
7 that's -- you know, I don't know when I got it.

8 I thought it was in the zip drive.

9 **Q** I guess -- so you don't know when
10 **you got it. You adjusted the file in September**
11 **of this year?**

12 **A** Yeah, because what I think I did --
13 what I think I did is I renamed it because it was --
14 like for you, just like what you're going through,
15 it was confusing on where it was in the time --
16 in the time frame, right? Dollars to doughnuts,
17 I think it's in that zip drive you have and it says
18 Trading. But whatever it is, Jim and I will get
19 this to you today.

20 **MR. FALVEY:** Yeah.

21 **BY MR. PLATT:**

22 **Q** Okay. So it sounds like you have two
23 **Excel files that have information about commissions,**
24 **Mr. Burnside, is that right?**

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1 **A** Yeah, I'd agree with that.

2 **Q** And that was something that you
3 **thought was important in rendering an opinion**
4 **that the trades made sense? Do I have that right?**

5 **A** No. I -- so like when I make a trade,
6 I make a trade and I don't look at commissions
7 because it's not part of my analysis of is the trade
8 a good trade. It's just -- it would be similar in
9 my world as if is it a good trade because of taxes.
10 I'm seeing if the trade makes sense and if the trade
11 makes sense, I'm going to make the trade. If the
12 trade does not make sense, then I'm not going to
13 make the trade.

14 **Q** How can you evaluate whether or
15 **not a trade makes sense without understanding**
16 **the cost of putting the trade on? That doesn't**
17 **make any sense to me, Mr. Burnside.**

18 **A** Because like in my world the
19 commissions are so negligible, it doesn't even
20 matter and I don't think that anybody's paying
21 ridiculous commissions. So I'm just looking at
22 structure and I'm looking at doing the right thing,
23 and I would not be paying, for example, 15¢ for a
24 20¢ butterfly.

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1 **Q Is a \$20 commission ridiculous?**
2 A I don't know. It seems -- you know,
3 is it \$20 on a 100 lot? Is it \$20 on a thousand
4 lot? I don't know what they were referring to.
5 Nobody gave me -- nobody's given me the breakdown
6 on how this whole thing works on that.
7 **Q I think you said that --**
8 A Other than what -- other than what you've
9 described this after -- today.
10 **Q Well, look at the file that you've**
11 **got on your computer. You said there's a tab called**
12 **1 Lot. How many lots do you think that refers to?**
13 A Well, I could do a summation,
14 I suppose. 119 is what that column comes up to.
15 **Q Right. But the tab, the name of the tab**
16 **of the file is 1 Lot, right?**
17 A Yeah. There's a couple 2 lots in there,
18 but I'm just going to tell you that the summation of
19 the whole thing was 119 of all the different trades
20 between September 18 and -- of '18 and January 16th
21 of 2019.
22 **Q And what is the commission information**
23 **on that 1 Lot tab for a particular trade?**
24 A Again, I'm summing this whole thing.

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1 **Q So I don't want the sum. I just want**
2 **per individual trade.**
3 A It looks like \$35 of -- for some
4 denomination of a 1 lot. I don't know if it's for
5 a hundred lot or a thousand lot or what.
6 **Q The name of the tab is 1 Lot trades.**
7 **What are you talking about? Do you think it's**
8 **a thousand lot?**
9 A I don't -- look, you're doing a lot of
10 assuming that I know this. I don't.
11 **Q I don't know it either, but I know**
12 **what you're telling me the title of the tab is.**
13 **Let's just move on. So you said that when you**
14 **analyzed your own trades, because your commissions**
15 **are negligible you don't consider commissions,**
16 **right?**
17 A Correct, correct.
18 **Q If a customer was paying \$20 per**
19 **option, would that still be a negligible amount**
20 **of commissions?**
21 A No.
22 **Q So to assess the viability of an**
23 **options trade, how can you ignore commissions if**
24 **they're \$20 per option?**

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1 A As we've discussed, in my world I don't --
2 I get mine next to zero.
3 **Q I'm not talking about your world.**
4 **I'm talking about your expert report in which you**
5 **opined that Long Leaf's trades were viable and that**
6 **they made sense.**
7 A They did. They are viable and they
8 make sense if I'm not -- again, I did not look
9 at the commissions. That's not -- the commission
10 schedule is not what I'm looking at here. I'm
11 looking at whether the trade itself makes sense
12 and is viable.
13 **Q And is it your --**
14 A That's all I have -- I'm not sitting
15 here saying that I'm dictating, you know, X, Y or Z.
16 Does the trade makes sense? Yes, it makes sense.
17 Is it a viable trade? It is. That's what I was
18 commissioned to look at.
19 **Q And so your opinion could be amended**
20 **to say Long Leaf's trades made sense if you ignore**
21 **all costs, right?**
22 A At some point somebody's got to get
23 paid. But, yes, you could -- I guess you could
24 say that.

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1 **MR. PLATT:** I'm going to show you
2 what I'm going to mark as CFTC Exhibit 518.
3 (Whereupon CFTC Exhibit No. 518
4 was marked for identification.)
5 **Q Can you see Exhibit 518, Mr. Burnside?**
6 A Yep.
7 **Q Do you recognize this document?**
8 A I do recognize that document.
9 **Q What is it?**
10 A It's a trade of -- for Long Leaf and
11 what a recommendation would be, the ALFA trade.
12 **Q What information is included on**
13 **Exhibit 518?**
14 A Obviously it's got the net amount.
15 It's got the pricing of what went on on the trades,
16 the cash costs, the margin amounts, the buys, the
17 sell and the net amount.
18 **Q What is your understanding of what**
19 **Long Leaf Trading used these recommendations for?**
20 A To have their clients make money.
21 **Q Do you understand that Long Leaf Trading**
22 **provided documents like this to their clients?**
23 A Okay.
24 **Q Do you know that? Did Donelson tell**

<p style="text-align: right;">Page 173</p> <p>1 you that?</p> <p>2 A He never told me that. But is this how</p> <p>3 he would send their, you know, his recommendations</p> <p>4 out?</p> <p>5 Q I can't answer the question because you're</p> <p>6 the witness, Mr. Burnside.</p> <p>7 A Okay.</p> <p>8 Q The first sentence is, "Please see</p> <p>9 referenced positions below we are recommending</p> <p>10 for execution." Did I read that correctly?</p> <p>11 A You did. So, yeah, so this is a sample</p> <p>12 of what he would send out.</p> <p>13 Q And is there any information on</p> <p>14 this document about the expected return of this</p> <p>15 trade?</p> <p>16 A No.</p> <p>17 Q Down where -- close to the bottom of</p> <p>18 this chart it says Estimated Net and then there's</p> <p>19 a value that's like negative \$26.82. Do you see</p> <p>20 that?</p> <p>21 A I do.</p> <p>22 Q What does that mean?</p> <p>23 A Well, it says right there, "Impact</p> <p>24 assuming all other variables remain the same."</p>	<p style="text-align: right;">Page 175</p> <p>1 got all of April and all of May to sell calls</p> <p>2 and puts against this position.</p> <p>3 Q Is there anything on this document</p> <p>4 that indicates that the number of additional</p> <p>5 straddles that will be sold against that position?</p> <p>6 A No.</p> <p>7 Q I'm just going to put 518 back up real</p> <p>8 quick.</p> <p>9 A Yes, sir.</p> <p>10 Q Does a trade that has a cost of \$5464</p> <p>11 and an estimated net of negative \$26, does that</p> <p>12 trade make sense to you?</p> <p>13 A In this context it actually does,</p> <p>14 and the reason why is that he's selling the</p> <p>15 shorter-dated options and protecting it with</p> <p>16 longer-dated options so that the customer doesn't</p> <p>17 get beat. In theory he could be making his 200 and</p> <p>18 some odd dollars and being able to make money on the</p> <p>19 other side as well or sell other options against it.</p> <p>20 Q Anything's possible, right?</p> <p>21 A Anything is possible. That's why they</p> <p>22 call them options.</p> <p>23 MR. PLATT: Here's another document</p> <p>24 that I'm marking as Exhibit 519. This was</p>
<p style="text-align: right;">Page 174</p> <p>1 I don't know what that means.</p> <p>2 Q Do you know if this document includes</p> <p>3 the impact of commissions?</p> <p>4 A My gut says no. I don't see any</p> <p>5 commissions on it and, therefore, I'm going to</p> <p>6 say no, it does not.</p> <p>7 Q Donelson didn't tell you one way or</p> <p>8 another, right?</p> <p>9 A That's correct.</p> <p>10 Q So do you see the Cash Cost box that says</p> <p>11 negative \$5,464?</p> <p>12 A Yes.</p> <p>13 Q And then the estimated net is negative</p> <p>14 \$26. Does that seem like a good bet to you to risk</p> <p>15 \$5400 to lose \$26?</p> <p>16 A No, but you also have quite a bit of time</p> <p>17 in this trade.</p> <p>18 Q If you were a Long Leaf customer and</p> <p>19 you got this trade recommendation, would you pull</p> <p>20 the trigger?</p> <p>21 A It depends what's gone on in the</p> <p>22 past, and I'm not trying to be evasive to your</p> <p>23 question. Would I pull the trigger? I might</p> <p>24 because I see that we've got a long time. We've</p>	<p style="text-align: right;">Page 176</p> <p>1 produced to us by Donelson. It's another</p> <p>2 QuikStrike document, but it looks like this</p> <p>3 is generated after the ALFA trade has been</p> <p>4 put on.</p> <p>5 (Whereupon CFTC Exhibit No. 519</p> <p>6 was marked for identification.)</p> <p>7 Q Do you recognize this?</p> <p>8 A Okay.</p> <p>9 Q What information is on Exhibit 519?</p> <p>10 A What you own, where the future is,</p> <p>11 what the at-the-money volatility is, how many</p> <p>12 days you've got left, what your Greeks are, what</p> <p>13 your theta is, everything.</p> <p>14 Q Does Exhibit 519 tell you whether or not</p> <p>15 the trade is making money?</p> <p>16 A It does not.</p> <p>17 Q Does Exhibit 519 have any information</p> <p>18 that says the trade is likely to make money?</p> <p>19 A No. It obviously will make money if</p> <p>20 we have a big move in this underlying contract.</p> <p>21 MR. PLATT: I'm going to show you what</p> <p>22 I'm marking as Exhibit 520. This is a document</p> <p>23 that Donelson produced to us.</p> <p>24</p>

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1 (Whereupon CFTC Exhibit No. 520
2 was marked for identification.)
3 **Q My first question is going to be do you**
4 **recognize this document?**
5 A Yeah, I've seen this document.
6 **Q This is a document that you had access**
7 **to when you were drafting your expert report, right,**
8 **Mr. Burnside?**
9 A Sure.
10 **Q What did Donelson tell you about the**
11 **information in this document?**
12 A He didn't tell me anything about it.
13 **Q Do you know what information is reflected**
14 **on Exhibit 520?**
15 A I'm going -- my speculation was is how
16 many contracts each individual would trade based
17 upon the recommendation that he would make.
18 **Q In your opinion as a professional**
19 **options trader, do you know what the term net**
20 **liq balance means?**
21 A I do.
22 **Q What does it mean?**
23 A Net liquidation value.
24 **Q And what is that?**

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1 A The amount of capital in your account.
2 **Q Look at Row 2. There's a customer**
3 **account F3782. Let's not say the guy's name.**
4 **The net liq balance is \$801 and it looks like**
5 **the recommendation is for two contracts. Do you**
6 **see that?**
7 A I do.
8 **Q Can you see the title of this file?**
9 A Corn 3-15 Analysis.
10 **MR. PLATT:** So now I'm going to pull
11 up the trade recommendation on a 3-15 corn
12 trade. I'm going to mark this as Exhibit 521.
13 (Whereupon CFTC Exhibit No. 521
14 was marked for identification.)
15 **Q Do you agree that this is a trading**
16 **recommendation disseminated by Long Leaf for a**
17 **corn calendar? Do you see that in the file?**
18 A I do.
19 **Q Do you see down at the middle there's**
20 **a box that's called Cash Cost --**
21 A Yes.
22 **Q -- that's negative \$343? Do you see that?**
23 A I do.
24 **Q So if you bought two contracts or**

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1 **if you traded two contracts for this spread, what**
2 **would be your cost?**
3 A \$687.76.
4 **Q It looks like the estimated net**
5 **included by Donelson is negative \$8. Do you see**
6 **that?**
7 A Yes.
8 **Q Does it make sense to you to advise**
9 **a retail customer with \$800 in their account to**
10 **enter a trade that costs \$680 with an estimated net**
11 **payoff of negative \$16? Does that make sense to you**
12 **in your professional opinion?**
13 A Well, this is very similar to the
14 last one where it's a big time spread. Now,
15 I understand where you're going is like does he
16 have enough net liq. That's -- I don't know the
17 customer. I don't know what he's about. I don't
18 know anything. But to answer your question, no.
19 **Q I'm going to go back to your expert**
20 **report real quick, which was Exhibit 507. So on**
21 **the second page there's a heading that says Data and**
22 **Documents Reviewed. Do you see that?**
23 A I do.
24 **Q The complaint and answer is Item 1.**

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1 **Item 2 is trades recommended by Long Leaf. Item 3**
2 **is your general knowledge of options markets.**
3 A That's right.
4 **Q Is it fair to say that you also relied**
5 **on the documents and information that you already**
6 **had access to in connection with your January 2020**
7 **declaration?**
8 A I would say that once I got reacquainted
9 with what was going on, they came back. But if
10 you're referring to the person having \$800 in their
11 account and making a 2 lot recommendation, well,
12 either the person has to be responsible not to do
13 the trade or put more money in their account if they
14 feel comfortable with the trade or not do the trade.
15 And so, therefore, when reviewing these trades that
16 were recommended by Long Leaf, I don't know the
17 client. They're not my client.
18 **Q So I'm not asking you about**
19 **Exhibits 520 and 521. What I'm trying to get at**
20 **now, Mr. Burnside, is just to close the universe**
21 **of documents and information that you relied on**
22 **in creating your report. I see these three items**
23 **under Data and Documents Reviewed. And my question**
24 **is should we also assume that you incorporated**

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1 **the data and information that you had available**
2 **to you in January of 2020 into this report?**
3 A I mean, I don't -- I couldn't find
4 any of the reports from previous. So if I had
5 any of the reports, they were resubmitted to me.
6 And all I can tell you is that if they were the
7 same, then maybe it jarred my memory. But in the
8 meantime, I'm not -- I'm not holding documents to
9 hold documents. I honestly thought this case was
10 settled and gone away until June or July of this
11 year so ...
12 Q Do you see under Item 2 it says you
13 reviewed trades that were recommended by Long Leaf
14 Trading?
15 A I do.
16 Q What is the -- what data and information
17 does that encompass?
18 A It was the trades, the broken collars --
19 I mean, excuse me, the broken butterflies, the
20 verticals, the gut stuff. I mean, all that stuff.
21 I reviewed those trades that were recommended.
22 Q Does it include the --
23 A I didn't go through every trade that
24 they recommended with every client that they sent

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1 it out to, by no means.
2 Q Right. I'm just trying to determine
3 what this refers to. I'm not saying that you should
4 have or that you did. I'm asking what does this
5 mean. We looked at two Excel files. Do those --
6 so should we consider those to be within Item 2?
7 A When you -- when I look at -- when
8 I'm looking at these, the trades that were done,
9 whether they were butterflies, broken butterflies,
10 guts, whatever, time spreads, whatever you want to
11 call them, that's what I was reviewing. I reviewed
12 these trades that were recommended by Long Leaf.
13 I reviewed them. And based on my options knowledge,
14 they were viable options trades and, therefore, they
15 could be recommended and it limited the risk of
16 their -- of the clients that chose to deploy them.
17 MR. PLATT: It's 2:30 Central. Let's
18 go off the record for, you know, a ten-minute
19 afternoon break.
20 THE WITNESS: Hot dog.
21 (Whereupon a recess was taken from
22 2:30 p.m., to 2:50 p.m., after which
23 the following proceedings were had:)
24 MR. PLATT: Can we please go back on the

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1 record with the deposition of John Burnside.
2 Q So, Mr. Burnside, earlier today we
3 discussed -- I asked you whether you had ever
4 implemented a gut strangle and your testimony
5 was that you hadn't. And I'd like to ask you
6 the same question about some of the other Long
7 Leaf trading strategies, okay?
8 A Okay.
9 Q And I'm putting back on the screen
10 Exhibit 517, which is an Excel file titled Trading
11 Details. You'll remember this --
12 A Okay.
13 Q -- this document covers --
14 the information in Column B covers the time
15 period November 2017 through September 2018.
16 And looking in Column G, I'd like to ask you
17 whether or not you've -- have you ever implemented
18 an iron butterfly trade?
19 A Yes.
20 Q When is the last time you implemented
21 an iron butterfly trade?
22 A I have one on currently.
23 Q In what product?
24 A (Inaudible).

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1 Q Excuse me?
2 A Facebook.
3 Q Options on Facebook stock?
4 A Yes.
5 Q And it's your goal with the iron
6 butterfly on Facebook stock to generate revenue
7 or to hedge another position?
8 A It's hedging a position.
9 Q What about an iron condor, have you ever
10 implemented an iron condor?
11 A I have that as well in another stock called
12 Envestnet.
13 Q Is your currently implemented
14 Envestnet iron condor for the purpose of hedging
15 or generating --
16 A It's hedging. It is hedging, not to
17 talk over you.
18 Q What about a broken wing butterfly,
19 have you ever implemented a broken wing butterfly?
20 A Yes, only because it ends up that
21 way after trading into it. Not as a strategy to
22 implement in one fell swoop, shall I say.
23 Q And is it accurate to say that the
24 broken wing butterflies that you've ended up in

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1 have been for the purpose of hedging?
2 A They have been.
3 Q When is the last time you traded a broken
4 wing butterfly?
5 A I would say it was last month in Microsoft.
6 Q But for iron butterflies, iron condors
7 and broken wing butterflies is it correct to say
8 that whenever you've implemented those kinds of
9 trades, you've done it for the purpose of hedging?
10 A That is correct.
11 Q What about a volatility swap, do you know
12 what a volatility swap is?
13 A Volatility spread. So you'd be buying --
14 well, theoretically you'd be buying the back month
15 and selling the front month, and I do that all the
16 time and I do that -- for example, I just did it
17 this week in Facebook because I was selling the
18 Octobers and buying November, and the reason is is
19 that it was a hedge and the hedge for the earnings
20 announcement, which comes out at the end of October.
21 So I wanted to be long in November, so there was an
22 earnings announcement was the reasoning.
23 Q So you wanted to protect against
24 the risk of increased volatility due to a news

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1 event in the future --
2 A Yep.
3 Q -- is that right?
4 A That's exactly correct.
5 Q You weren't trying to generate
6 income in connection with a future news event,
7 right?
8 A No, it was -- the trades that I make
9 currently are for hedging stock positions.
10 Q And every time you've implemented
11 a volatility swap or a volatility spread it's
12 been for the purpose of hedging, is that correct?
13 A That is correct.
14 Q What about a ratio spread, have you ever
15 traded ratio spreads?
16 A I do. And that is -- the reason
17 I do is it might be -- it's -- again, it's
18 hedging a stock position and then it could also
19 be from the standpoint of making sure I have units
20 that are protecting my stock, but then I also have
21 an opportunity if the stock does something crazy,
22 I've got some extra units.
23 Q Again, the ratio spreads that you
24 implement are for the purpose of hedging and not

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1 for income generation, correct?
2 A That's correct.
3 Q What about calendar spreads, do you
4 implement calendar spreads?
5 A All the time. Again, hedging, but
6 I probably do that every week.
7 Q And so to the extent that you implement
8 broken wing butterflies, calendar spreads, ratio
9 spreads, volatility spreads, you implement those
10 trades exclusively for hedging purposes. Do I have
11 that right?
12 A You do.
13 Q And to the extent you trade those
14 options, they are options on single name securities,
15 not on futures, right?
16 A That is correct.
17 Q I'm going to put your expert report
18 back up on the screen. This is Exhibit 507. And
19 so I just want to make sure that we understand the
20 time period that this opinion applies to, and I
21 think your testimony was it only applies to the
22 time period that Donelson owned the company.
23 Do I have that correct?
24 A That is correct. I did peruse prior

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1 trades, but it was predominantly once Donelson
2 took an interest in the company.
3 Q Approximately in November or December 2017,
4 does that sound right?
5 A It does.
6 Q Just so the record's clear, you are
7 not offering an opinion on Long Leaf's trading
8 recommendations from before November of 2017, right?
9 A Correct.
10 Q Do you remember earlier today
11 we also discussed a gap in the records that had
12 been produced to the CFTC? It sounds like it was
13 inadvertent. There was an Excel file that covered
14 November of 2017 through September of 2018 and then
15 I have a gap until January of 2019 through July of
16 2019, but you have data for that time period.
17 Do you remember that?
18 A I do.
19 Q What is your understanding of when Long
20 Leaf stopped operating?
21 A I'm sorry. I didn't hear the question.
22 Q When is your understanding of the
23 time period when Long Leaf stopped operating?
24 A It appeared to me that it stopped

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1 operating in the, I would say, second quarter of
2 2019 just because I got no -- I had no more data.
3 **Q Did you ever ask Donelson when the company**
4 **stopped operating?**
5 A I did not.
6 **Q And he never provided you with any**
7 **information about the company's trades from August**
8 **of 2019 through December of 2019. Do I have that**
9 **right?**
10 A Yeah, I've got to say, no, I never
11 saw anything in regards to that. At least I don't
12 think.
13 **Q So would it surprise you to learn**
14 **that Long Leaf continued to operate until the end**
15 **of 2019?**
16 A In the trading world nothing surprises me.
17 **Q What does that mean?**
18 A I've just seen so many different
19 things occur in this environment, it's amazing.
20 So the ever-popular never say never.
21 **Q So I'm going to show you CFTC**
22 **Exhibit 428 back up on the screen, and this**
23 **is our summary of Long Leaf's customer statements**
24 **summarizing their closed PNL for the months**

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1 **when Donelson owned the company. And do you**
2 **see from August through December of 2019 it looks**
3 **like there was a cumulative loss of about \$600,000?**
4 **Do you agree with that?**
5 A Hang on. I'm trying to widen the screen.
6 Give me two seconds.
7 **Q Sure. Let me do this.**
8 A Okay, yeah. Okay, good. Thank you.
9 Yeah, okay. My fat fingers got to it and it didn't
10 work out so well. Can you scroll down a little bit,
11 do you mind? Just so I can see -- the bottom that
12 I can see is like -- thank you. Okay. What was the
13 question? I'm sorry.
14 **Q From August 2019 through December**
15 **of 2019 do you agree that Long Leaf's -- according**
16 **to this exhibit which summarizes Long Leaf's**
17 **customers' aggregate PNL, do you agree that from**
18 **August of 2019 through December of 2019 the**
19 **customers lost in the aggregate approximately**
20 **\$600,000?**
21 A I'll take your word for the 600, but they
22 definitely lost money.
23 **Q I'm rounding. The entry for August**
24 **is 1.779 million and the entry for December of**

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1 **2019 is 2.376 million.**
2 A Yeah, yeah, yeah. It's 600.
3 **Q And your testimony is that Donelson didn't**
4 **provide you any data, information in connection with**
5 **your expert report about the August through December**
6 **of 2019 time period, right?**
7 A I never received any that I'm aware of.
8 **Q And for the starting date of your**
9 **report, I just asked you a couple of questions.**
10 **Can you narrow it down between November and December**
11 **of 2017 what your best recollection is as to when**
12 **your report begins?**
13 A I'm going to guess the earlier,
14 not the latter only because, if I'm not mistaken,
15 he started doing some trades I think in August
16 or something but then really got full tilt into
17 October or November time frame. So I would say
18 it was in that time frame that I was looking at
19 it and that's when I started, you know, perusing,
20 as we've discussed numerous times here, that we --
21 you know, I started looking at did he do
22 butterflies, did he do broken butterflies, dada,
23 dada, dada, da.
24 **Q Okay. Let me just put 517 back up**

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1 **on the screen. This might help us narrow it down.**
2 A Okay.
3 **Q Do you see Exhibit 517 on the screen?**
4 A I do.
5 **Q And do you see for December and**
6 **November of 2017 it's almost exclusively condors,**
7 **short condors?**
8 A Right. It's the condors, the
9 broken wings, all that stuff. And what else
10 is interesting, now that you bring it up, is that
11 that B column is filled in as well going into the
12 November of '17.
13 **Q So is your answer that your opinion**
14 **does apply to November of '17 or that it doesn't?**
15 A I would say that it does.
16 **Q Okay. Even though it's mostly short**
17 **condors?**
18 A Yeah.
19 **Q Okay, that's fine. So you remember**
20 **we've looked at two Excel files today. I showed**
21 **you one, and it sounds like you have another, that**
22 **have data and information about Long Leaf's trades**
23 **in late 2018 and the first half of 2019. Do you**
24 **remember those files?**

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1 A I do. I do.
2 **Q And we identified data and information**
3 **concerning profit and loss and commission rates**
4 **on those files?**
5 A We did.
6 **Q In your review of the material**
7 **that Donelson provided to you, did you notice**
8 **that information when you were reviewing those**
9 **documents on your own?**
10 A I saw the columns, but I was not
11 concerned about the columns as much as I was
12 concerned about the proper structure of the trades,
13 since that was my forte of what I was trying to
14 help, for lack of a better term, educate people
15 on that these were broken butterflies, these were
16 gut trades, these were time spreads and so on and
17 so forth. So I honestly -- even if I'd go another
18 spreadsheet, I would -- I didn't even include the --
19 I included what I -- what I only included was the
20 contract, what was happening and so on and so forth
21 like that, how many contracts were traded. So I
22 did not look at the commissions, as I've mentioned
23 several times.
24 **Q So the record is clear, at the**

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1 **time you issued your report, Exhibit 507, you**
2 **were aware that Long Leaf Trading -- or you had**
3 **information and documents that reflected Long Leaf**
4 **Trading's commission rates and its profit and loss**
5 **information but you didn't include that in your**
6 **analysis, is that right?**
7 A That is correct.
8 **Q Did anyone tell you not to include that**
9 **information in your expert report?**
10 A No. My job was to evaluate the
11 trades, not all the other fees, and no one ever
12 said that. It's just what I do. If I'm looking
13 at a trade, I'm looking at a trade. I'm not looking
14 at the commissions and everything else. I'm looking
15 at risk management. I'm looking at prudence on, you
16 know, is there unlimited risk or is there defined
17 risk. Is there -- is it -- is the trade that's
18 being done actually the trade that's being done,
19 and that was what I was, at least in my opinion,
20 was sanctioned to do.
21 **Q So your report, as best I can tell,**
22 **it says that your job is not to validate the trades**
23 **but to prove that the options -- but to prove that**
24 **the trades are viable options strategies. Do you**

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1 **remember that line in the project?**
2 A You don't have to bring up the strategy --
3 or the document. I remember that quote.
4 **Q Is it accurate to say that your opinion**
5 **in this case is limited only to the opinion that**
6 **in 2018 and 2019 Long Leaf implemented trades that**
7 **can be categorized as broken butterflies, calendar**
8 **spreads and gut strangles?**
9 A Correct. That was what I --
10 predominantly, yes.
11 **Q What's the qualifier --**
12 A I think I saw a couple of future trades
13 in there that I -- that were one-offs and I didn't
14 even comment on those.
15 **Q And so the qualifier predominantly**
16 **is there may be some trades that are not in those**
17 **categories and you're not worried about those?**
18 A They weren't options trades so I --
19 that was not my -- that's not my forte. I hope
20 I didn't talk over you there. Sorry.
21 **Q To the extent there are trades**
22 **that aren't broken butterflies, calendar spreads**
23 **or gut strangles, do you have an opinion on those?**
24 A That was predominantly the option

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1 trades that I reviewed and I basically bucketed
2 them into those three categories. If there's
3 something that I missed, which is highly probable
4 with all these trades that went on, but the majority
5 of the trades were in those three buckets. And
6 if he went out and bought, say, a gold future, I
7 didn't -- that, you know, I don't know anything
8 about that.
9 **Q Do you agree that the wording of**
10 **your report is a little bit confusing when you**
11 **say that you're proving that Long Leaf's trades**
12 **are viable options strategies?**
13 A No.
14 **Q You think it's crystal clear?**
15 A I think it is because as a pure
16 trade in the options world it is a viable trade.
17 Now, you've brought up -- you've brought up several
18 times many other factors that are out there, meaning
19 the commissions or what have you. I did not review
20 those. That's not my job. My job was to review
21 the options trades, not all the other things that
22 were going on.
23 **Q Well, remember this morning when**
24 **we discussed all the different factors that would**

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1 **make a trade profitable or not profitable? I'm**
2 **having a hard time squaring that testimony with**
3 **your testimony that the only thing that matters**
4 **is the pure structure of the trade. Can you help**
5 **me reconcile that?**
6 A Absolutely. So the reason is is that
7 my job was to validate that these trades were viable
8 option trades that are done on a regular basis, and
9 even I've mentioned to you that I've done quite a
10 few of them in my trading, and the point that I'm
11 making is is that they're viable trades. Now, that
12 was all I was sanctioned to do, look at the options
13 trades, don't -- you know, I didn't -- was not --
14 I didn't, you know, drill down on where everybody
15 got filled. I didn't drill down on the commission
16 rates, and maybe people have different commission
17 rates. I don't know.
18 So my whole point is that's not
19 my speculation. My speculation is to -- my point
20 of being here today for these last almost seven
21 hours is to tell you that the trades that were made
22 were viable options trades. Now, you've brought up
23 numerous other things that are out of my control.
24 They're not part of my jurisdiction, shall I say.

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1 It's between Long Leaf and the client or you and
2 the client or you and Long Leaf, but that doesn't
3 have any bearing on me. I'm just here to evaluate
4 an option trade, whether it makes sense, whether
5 it's a consistent trade that is done.
6 Q **Would you be willing to amend your report**
7 **so it says that in those words?**
8 A I don't have -- sure, that's fine.
9 I don't have a problem. But at the same time I
10 just want you to recognize that that is what was --
11 that is what I was sanctioned to do.
12 Q **Here's what I would propose because**
13 **here's what it sounds like you've testified to**
14 **consistently today, that your project is to opine**
15 **that some of Long Leaf's trades in 2018 and 2019**
16 **can be categorized as broken butterflies, calendar**
17 **spreads and gut strangles. It seems very limited**
18 **to me. Do you agree with that?**
19 A Wasn't that most of the trades?
20 I know I can't ask questions. I believe that
21 was most of the trades, and that's why I put it
22 in those three buckets.
23 Q **But that's all you're saying, right,**
24 **is that the trades fall into those buckets? You're**

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1 **not saying anything about whether or not the**
2 **trades at either the individual level or in the**
3 **aggregate were either well designed or designed more**
4 **likely than not to make money, isn't that right?**
5 A I'm not -- again, the point that
6 I was -- the reason I was brought in here was
7 to make sure that the trades that were executed
8 were legitimate, viable, consistent trades in
9 regards to what he was trying to accomplish. Now,
10 I'm not looking behind the screen of everything
11 else that's going on because that's not my job.
12 My job is to look at the options trades themselves.
13 I'm -- I trade options. I don't do everything
14 else. That's why I'm here as an options expert,
15 not an attorney expert or anything else. I'm
16 here as an options expert to say that these trades
17 are legitimate trades, and we've -- I think we've
18 established that they are. And what's gone on,
19 whether they're time trades, time spreads, calendar
20 spreads, whatever they might be, what you want me
21 to do is go beyond that scope and opine on what
22 could be, which I don't know is a fact.
23 Q **So that's helpful and that's exactly the**
24 **opposite of what I'm asking you to do, Mr. Burnside.**

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1 **I'm not asking you to go beyond anything and opine**
2 **on anything. I'm asking you is the only thing your**
3 **report says that Long Leaf's trades from 2018 and**
4 **2019 can be categorized as broken butterflies,**
5 **calendar spreads and gut strangles and then leave**
6 **it at that.**
7 A Can I use the word predominantly
8 because I'm sure there's something else in there.
9 Q **Sure. So let's try it again because**
10 **like to the extent that there may be a handful**
11 **of trades --**
12 A There aren't -- that aren't -- that
13 don't fall into those three buckets, right? You
14 would agree with that I think, and so --
15 Q **Hold on, hold on, because you can't**
16 **ask the questions. Let's do it this way. Among**
17 **Long Leaf's trades from 2018 and 2019 there are**
18 **broken butterflies, calendar spreads and gut**
19 **strangles, right?**
20 A Yes.
21 Q **I think that's all your report says**
22 **based on your testimony today. Do you agree with**
23 **that?**
24 A I agree with that but that they are

<p style="text-align: right;">Page 201</p> <p>1 viable option strategy trades.</p> <p>2 Q The categories of trades are potentially</p> <p>3 viable, right? They could make money. That's your</p> <p>4 testimony?</p> <p>5 A Yeah.</p> <p>6 Q Not that Long Leaf's trades were likely</p> <p>7 to make money, right?</p> <p>8 A I don't know. I never got the confirms.</p> <p>9 I've said that to you many times.</p> <p>10 Q Well, you've also testified that you</p> <p>11 didn't even undertake to analyze whether or not the</p> <p>12 trades were likely to make money, right?</p> <p>13 A Again, why would you be in a trade if</p> <p>14 it's not going to make money?</p> <p>15 Q That's not the question.</p> <p>16 A I'm saying that I have a premise that</p> <p>17 people make trades to make money, and that's the</p> <p>18 premise that I always go off of. And maybe that's</p> <p>19 a wrong premise, but that's the premise that I would</p> <p>20 say is -- why would you put on a trade if you don't</p> <p>21 think you're going to make money on it?</p> <p>22 Q You didn't conduct any independent</p> <p>23 analysis of any Long Leaf trade to determine whether</p> <p>24 or not it was designed to achieve net profitability,</p>	<p style="text-align: right;">Page 203</p> <p>1 Do you --</p> <p>2 A Yes, I see --</p> <p>3 Q -- see Exhibit 514? Do you see this</p> <p>4 document, Mr. Burnside?</p> <p>5 A I see it.</p> <p>6 Q This is the document that you just</p> <p>7 referenced, right?</p> <p>8 A Sure, it's one of them. Go ahead.</p> <p>9 Q Where does this document reflect</p> <p>10 the probability that this trade will result in net</p> <p>11 profits? Point me to that data.</p> <p>12 A It does not.</p> <p>13 Q Did you undertake any independent</p> <p>14 analysis to determine whether or not this corn</p> <p>15 calendar trade was likely to generate net profits?</p> <p>16 A When trades are made you have to</p> <p>17 sometimes have the position on and be able to --</p> <p>18 and roll them to make the money that you're hoping</p> <p>19 to make.</p> <p>20 Q I'm going to strike that answer as</p> <p>21 not responsive. The question is what independent</p> <p>22 analysis did you conduct to determine whether or not</p> <p>23 this trade was more likely than not to make money?</p> <p>24 A This trade as an independent trade does</p>
<p style="text-align: right;">Page 202</p> <p>1 isn't that true?</p> <p>2 A That's true to the extent that these</p> <p>3 strategies are viable.</p> <p>4 Q That doesn't make any sense and it's</p> <p>5 not responsive to the question. It's a yes-or-no</p> <p>6 question. Did you undertake an analysis of whether</p> <p>7 or not any specific Long Leaf trade was designed to,</p> <p>8 more likely than not, to generate net profits for</p> <p>9 a customer?</p> <p>10 A You're putting -- yes, I did but limited.</p> <p>11 Q Explain when you analyzed --</p> <p>12 A We just went through one -- well, I'm</p> <p>13 not trying to talk over you. We just went through</p> <p>14 one where you said, well, why would you do this</p> <p>15 trade and I said maybe there's an announcement,</p> <p>16 maybe he wants to own this, maybe he's trying to</p> <p>17 get a theta trade, maybe he's got two more months</p> <p>18 of selling calls against it -- or strangles against</p> <p>19 it, straddles or whatever. And I'm just saying that</p> <p>20 that trade makes sense if, if, those other things</p> <p>21 happen. I don't know. If I sell the March's, I've</p> <p>22 got all of March to sell, I've got all of April to</p> <p>23 sell, and now I've got May left.</p> <p>24 Q I'm sharing Exhibit 514 with you.</p>	<p style="text-align: right;">Page 204</p> <p>1 not make money. Does not mean that there aren't</p> <p>2 other trades that go along with it. That's all I'm</p> <p>3 saying, and it's a viable strategy.</p> <p>4 Q What independent analysis did you</p> <p>5 undertake to determine that this trade was more</p> <p>6 likely than not to make money? You didn't do it,</p> <p>7 did you?</p> <p>8 A This trade is a simple trade. It's</p> <p>9 a calendar spread.</p> <p>10 MR. FALVEY: He's just asking did you</p> <p>11 do analysis.</p> <p>12 A The analysis is that I spent \$343 to</p> <p>13 do a 1 lot -- I guess to answer your question, no,</p> <p>14 I did not do an analysis on this trade because there</p> <p>15 are many variables that can go on between March 5th</p> <p>16 and the May contract expiring.</p> <p>17 BY MR. PLATT:</p> <p>18 Q And isn't it true that you didn't</p> <p>19 do any analysis on any other trade recommended</p> <p>20 by Long Leaf available to you as to whether or not</p> <p>21 the trade was more likely than not to make money?</p> <p>22 Isn't that true, Mr. Burnside?</p> <p>23 A That is true.</p> <p>24 MR. PLATT: Let's go off the record.</p>

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1 I think we're almost done.
2 (Whereupon a recess was taken from
3 3:23 p.m., to 3:26 p.m., after which
4 the following proceedings were had:)
5 **MR. PLATT:** Let's go back on the record
6 at 3:26 Central, continuing with the deposition
7 of John Burnside in the Long Leaf matter.
8 Mr. Burnside, I have no further
9 questions at this time. I'll pass to Mr. Falvey
10 if he has any questions for you on behalf of
11 Long Leaf Trading.
12 **MR. FALVEY:** I don't have any questions,
13 Mr. Platt. Thank you.
14 **MR. PLATT:** Okay. I think we can go
15 off the record and conclude the deposition.
16 Mr. Burnside, thank you for appearing.
17 **THE WITNESS:** It's been a special day.
18 **MR. PLATT:** For you and me both.
19 (WITNESS EXCUSED)
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Page 206

1 NORTHERN DISTRICT OF ILLINOIS)
2 EASTERN DIVISION)
3 STATE OF ILLINOIS) SS.
4 COUNTY OF COOK)
5 I, Mary Maslowski, Certified Shorthand
6 Reporter and Notary Public in and for the County of
7 Cook, State of Illinois, do hereby certify that on
8 September 30, 2021, the deposition of the witness,
9 JOHN F. BURNSIDE, called by the Plaintiff, was taken
10 before me, reported stenographically and was
11 thereafter transcribed by me.
12 The said witness, JOHN F. BURNSIDE, was
13 first duly sworn to tell the truth, the whole truth,
14 and nothing but the truth, and was then examined
15 upon oral interrogatories.
16 I further certify that the foregoing is a
17 true, accurate and complete record of the questions
18 asked of and answers made by the said witness, at
19 the time and place hereinabove referred to.
20 The signature of the witness was waived by
21 agreement.
22 The deposition terminated at 3:27 p.m.
23 The undersigned is not interested in the
24 within case, nor of kin or counsel to any of the
25 parties.

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1 Witness my official signature and seal as
2 Notary Public, in and for Cook County, Illinois on
3 this 15th day of October, A.D., 2021.
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Mary Maslowski, CSR, RPR
Notary Public
79 West Monroe, Suite 1001
Chicago, Illinois 60603



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